This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

THE

TRIAL

OF

EDWARD MARCUS DESPARD, ESQUIRE.

FOR

HIGH TREASON,

AT THE SESSION HOUSE, NEWINGTON, SURRY,

On Monday the Seventh of February, 1803.

TAKEN IN SHORT-HAND BY

JOSEPH GURNEY and WILLIAM BRODIE GURNEY.

LONDON:

SOLD BY M. GURNEY, BOOKSELLER, HOLBORN-HILL.

1803.

[Entered at Stationers' Hall.]

G. Woodfall, Printer, Paternoster-row.

THE

TRIAL

OF

EDWARD MARCUS DESPARD, ESQUIRE.

FOR

HIGH TREASON.

On the 3d of January, 1803, a Special Commission of Oyer and Terminer, issued under the Great Seal of the United Kingdom of Great-Britain and Ireland, to enquire of certain High Treasons, and Misprisions of Treason, committed within the County of Surry, and a Special Commission of Gaol Delivery, as to all Persons who were, or should be in custody for such Offences, on or before the 25th of March following.

On the 21st of January, the Special Commissions were opened at the Session-House at Newington,

PRESENT,

The Right Hon. Lord ELLENBOROUGH, Lord Chief Justice of his Majesty's Court of King's Bench;

The Hon. Sir ALEXANDER THOMSON, Knt. one of the Barons of his Majesty's Court of Exchequer;

The Hon. Sir SIMON LE BLANC, Knt. one of the Justices of his Majesty's Court of King's Bench;

And the Hon. Sir ALAN CHAMBRE, Knt. one of the Justices of his Majesty's Court of Common Pleas.

The Sheriff delivered in the Pannel of the Grand Jury, which was called over, when the following Gentlemen were sworn.

The Grand Jury.

The Right Hon. George William Evelyn Leslie, commonly called Lord Leslie.
The Right Hon. Thomas Onslow, commonly called Viscount Cranley.
The Right Hon. William Russel, commonly called Lord William Russell.
The Hon. Chappel Norton.
Sir Mark Parsons, Bart.
Sir John Frederick, Bart.
Sir George Glynn, Bart.
Sir Thomas Turton, Bart.
Sir Robert Burnett, Knt.
Robert Hankey, Esq.
James Trotter, Esq.
Joseph Alcock, Esq.
John Pooley Kensington, Esq.
Joseph Bradney, Esq.
Henry Thornton, Esq.
Henry Peters, Esq.
Thomas Page, Esq.
John Whitmore, Esq.
Thomas Langley, Esq.
William Borradale, Esq.
Thomas Gaitskell, Esq.
Richard Wyatt, Esq.
John Webb Weston, Esq.

Lord Ellenborough.

Gentlemen of the Grand Jury,

We are assembled on this occasion, under the authority of his Majesty's Commission, issued for the trial of certain persons, charged with all, or some of the offences therein specified. Those offences are high treasons, and misprisions of high treason; offences against an Act made in the thirty-sixth year of his Majesty's reign, "for the safety and preservation of his Majesty's person and government, against treasonable and seditious practices and attempts;" and against another Act made in the thirty-seventh year of his reign, "for the better prevention and punishment of attempts to seduce persons serving in his majesty's forces by sea or land, from their duty and allegiance to his Majesty, or to incite them to mutiny or disobedience;" and lastly, against another Act also made in the same thirty-seventh year, "for more effectually preventing the administering or taking of unlawful oaths."

Many of these, you will observe, are of that species of offence, which, from its peculiarly malignant effect upon the peace, happiness, and security of the

realm, and from its direct and immediate tendency to subvert and destroy the foundations of all government and legitimate authority, have at all times been justly placed in the highest class and order of crimes, which is known to the law of England. By this description, I shall of course be understood to mean the crime of high treason, committed against the person and royal authority of the sovereign. Another of the offences which is by the same Commission, immediately subjected to your cognizance, and against which the above mentioned Statute of the thirty-seventh of George III. is particularly directed, is an offence, second only in degree, and inferior only in magnitude and enormity, to the crime of high treason itself, and of which indeed it forms, in some cases, and most probably will be found to do so in the present, a very material part and member; I mean the crime of "seducing persons serving in his Majesty's forces by sea or land, from their duty and allegiance to his Majesty."

The law of this land, from the earliest period at which it is known to us, has, with an anxiety in a considerable degree proportioned, but at present, from various causes, hardly adequate, to their supreme value and importance, watched over, and protected the life and personal safety of the sovereign. It has considered, in his instance, the mischievous workings and imaginations of the mind, the malignant purposes of the heart, when directed towards his destruction, and manifested so to be by any act plainly done in prosecution of such purpose, and conducing to its execution, as equally criminal in their nature, and has rendered them equally penal in all their consequences, with the actual perpetration of the atrocious deed itself, which is the object of such imagination and purpose.

To investigate and ascertain the existence of such a purpose in the mind of the person charged therewith, and the nature and tendency of the acts done by him in the supposed prosecution of such purpose, and which acts are, in high treason, denominated "*overt acts*," is at all times, the weighty care and duty of a

Jury, charged with the important function which you are at present called upon to exercise.

What should be deemed sufficient "*overt acts*," of the particular head and species of treason, "of compassing and imagining the death of the king,"—In other words, what acts properly amount to legal evidence of the existence of such a purpose, in the mind of the person charged therewith, has been occasionally, heretofore, the subject of dispute and controversy. Long, however, before the passing of the late Statute of the thirty-sixth of his present Majesty, this, at least, had been judicially settled, by the most grave and revered authorities of the law, that all measures adopted for the deposing of the king from his royal state and dignity, all measures of force directed against his royal person, either for the taking possession thereof, or subjecting it to restraint and imprisonment, are impressed with the heinous character and stamp of this denomination of treason, and entitled to be received as the strongest and most cogent evidence thereof.

It has also been settled by the like high authorities, that any consultations and meetings of persons, in order to effectuate the above purposes, although nothing should be ultimately done thereupon, and although the whole scheme and plan should prove ineffectual and abortive, that any agreement or assent given to overtures or proposals of that kind (and which assent is to be collected in this case, from the same circumstances of approbation or acquiescence, from which it is properly capable of being collected in all other cases) are all of them competent overt acts, of that species of high treason, which consists in compassing and imagining the death of the king. All pretence, however, for doubt upon a subject, which, from its superior importance, deserved well that it should be cleared of any remaining shades of uncertainty, which might even erroneously be supposed to cloud and obscure it, has been, for all succeeding times, distinctly removed and obviated, by the prudent provisions of the late Statute of the thirty-sixth

of George III. cap. 7. which, amongst other things, enacts, "that, if any person or persons whatsoever, during the natural life of the King (and for a limited time afterwards) should *compass, imagine, invent, devise, or intend death or destruction,* or any bodily harm, tending to death or destruction, maim, or wounding, *imprisonment, or restraint,* of the person of the King, &c. every such person or persons, so offending, should be deemed to be a traitor and traitors, and should suffer and forfeit, as in cases of high treason."

To compass and imagine, therefore, the *imprisonment, or personal restraint of the king,* is now, by the express letter of a clear and positive Statute, placed as a substantive act of treason, upon exactly the *same ground with the compassing and imagining of the natural death of the King,* as that crime stands under the very letter and terms of the Statute of the twenty-fifth of Edward III. itself. The same indeed may be said of all the other treasons, which are specifically enacted in the Statute of the thirty-sixth of George III. and I only select, by way of instance, those of "*compassing, imagining, devising, and intending, the imprisonment, and restraint of the person of the King,*" because it is probable, that the descriptions of treason I have mentioned, together with that of *compassing and imagining his death,* will be those to which your attention will be more particularly called, by the evidence about to be submitted to your consideration.

I have already stated to you, that such acts as sufficiently indicate an intention to commit any particular species of treason, and conduce to its execution, are properly overt acts of high treason.

All overt acts which are meant to be given in evidence against the prisoner, are justly and humanely required by the seventh of William III. cap. 3. to be expressly laid in the indictment against him, in order that he might thereby be apprised of the substance of the charge which he is called upon to answer; but the numerous particulars into which such a charge

will naturally and unavoidably branch and extend itself in point of proof, need not be detailed and spread out on the face of the indictment.

It is enough that the nature of the overt act relied upon, be specified with reasonable and convenient certainty; and, when this is done, the various other circumstances, with which the overt act is immediately and necessarily connected in point of fact, and the different means employed for effecting the same, need be no further stated. Indeed, the several other matters may properly be considered as being only so many parts, appendages, and results of that which is before stated, and as virtually included therein.

I have said thus much in respect to the form of alledging the overt act in an indictment for high treason, in the hope of affording you some assistance towards the more clearly understanding the real substance and form of that indictment, which will presently be laid before you, couched of course, in the technical language used on such occasions; and that you may also be the better enabled to judge whether it is accompanied by the competent kind and degree of proof, which ought to be adduced in support of it. I will further suggest, for your information (in case it may be necessary) what the law requires on this head. In the first place, the law requires that the crime be tried by a Jury of the county within which it has been, in the whole, or in part, committed. Some one overt act of the particular species of treason, charged in the indictment, that is to say, of the compassing and imagining the death of the king, or of levying war against him, or the like, must be proved by some one witness, to have been committed within the limits of that county, in which the indictment is to be preferred, and by a Jury of which the trial is to take place. For example, some one meeting or consultation for the purpose of forwarding the objects of the treason, must, upon this occasion, be proved by some one witness, to have been held, or some other act done by the party or parties, meant to be affected thereby, at some place within this county. This, you will observe, is

merely necessary for the purpose of investing you, the Jurors of this county, with legal competence to enquire of the offence charged. When this proof is made out, any other act, in prosecution of the same species of treason, wheresoever committed, whether within or without this county, and by whatever witness proved, either the same or a different one, may be received in evidence without objection: I mean as far as respects the locality of such acts.

The law also requires, in the finding of indictments by the Grand Jury, in the first instance, as well as upon the trial of them afterwards by another Jury, to whom that province belongs, that proof of overt acts shall be made by the oath of two witnesses, either both of them to the same overt act, or one of them to one, and the other of them to another overt act, of the same species of treason. If, however, the overt act charged, should be "of any direct attempt," that is, of any attempt actually made against his majesty's person, "whereby his life might be endangered, or his person suffer bodily harm," in that case, by the express and very necessary provision of a late Statute of the thirty-ninth and fortieth year of his present majesty, the person charged with such direct attempt, "may be indicted and tried in the same manner, and according to the same course and order of trial in every respect, and upon the like evidence, as if such person stood charged for murder." I am not, however aware, that any such direct attempt is likely to become the subject of consideration upon the present occasion, or under this Commission.

It is unnecessary for me to suggest any thing further to you as to the frame of the indictment, or the number or nature of the witnesses by whom, according to any subsisting provisions of law, it is required to be supported. I will, however, trespass on your attention for a few moments longer, upon another subject, to which it has not been hitherto drawn. I mean, as to the probable nature and quality, and the proper legal effect of those acts and circumstances, which are now about to be laid before you in evidence.

It is the natural and usual effect of guilt, so far to blind and infatuate the understandings of those who are busily occupied in the contemplation of its projects, and who have long brooded over the means of its execution, as to produce in them a confident persuasion, that there exist in other minds feelings and inclinations congenial to their own, which dispose them to receive with favour, and to forward with zeal and alacrity, even the wildest objects of their own detestable machinations.

This persuasion often generates such a degree of rashness and indiscretion in the overtures and communications made by guilty men towards others, whom they seek to associate, or believe that they have already in part associated, to their own designs, as leads to discoveries, by which the public safety is frequently redeemed and rescued from its immediately impending peril. But the greatest part of that disclosure, which most effectually developes the secret and hidden springs of action, and the most dark and fatal designs in every conspiracy, can, in the nature of things only be obtained (as it has in all times past hitherto generally been obtained) from those to whom the facts disclosed, were, by a participation of the same counsels previously known, that is, from some of the conspirators themselves, from persons combined and confederated in the actual execution of the same dangerous designs and enterprises.

The evidence of accomplices, although unquestionably competent, is at all times to be received and acted upon with a just and sober degree of jealousy and caution; and, unless the testimony derived from this source, be of such a nature as to carry internal evidence of its own truth along with it, or be confirmed by other evidence of a less exceptionable description, it affords no safe and satisfactory ground for conclusions, by which the lives, fortunes, and honour of others, is to be materially affected. In weighing, therefore, the evidence of accomplices, a Jury, charged with a determination of those important issues in their final and decisive result (which, how-

ever, Gentlemen, is not your immediate province on the present occasion), will expect to find such a degree of consistency in the testimony of each particular witness, such a degree of general conformity between the different relations of the several witnesses collectively taken, as to the nature, means, and objects of the conspiracies. Such a degree of confirmation derived to them all from other collateral and concomitant facts and circumstances, and such a coincidence in the whole, with the main rules of ordinary probability, by which our belief is governed in other cases of a similar nature, as to render the sum and substance of the details, delivered by such witnesses, justly credible; and, if in the result, the substance of the facts related by the witnesses, shall appear to be such and so confirmed as I have above described, Juries will of course act upon them as deserving of that credit, which their own minds, proceeding with the salutary degree of caution and reserve I have already recommended, shall nevertheless be induced to give them.

In applying these observations, however, you will of course bear in mind, that it is by another Jury that the guilt or innocence of the persons accused, is ultimately to be decided; and that to you, upon the present occasion, is only committed the charge of diligently attending and providing, in the first instance, that a reasonable and probable ground of guilt be made out, sufficient to warrant you in putting the persons charged therewith upon their trial by that Jury, which is afterwards, in the last instance, and upon a full hearing of the evidence on both sides, to pronounce a final verdict of condemnation or acquittal. If, upon the present occasion, such a case of probable guilt is brought before you, it will, of course, be your duty, and no doubt, your inclination also, to submit such case to the ulterior investigation and decision of its proper tribunal.

At present, it is only necessary to add, in order to obviate any misconception on the subject, which might affect the discharge of your own immediate duty,

that to refuse its due and proper degree of credit to testimony, drawn from the source I have alluded to, would be to render the crime of the conspirators, and the extent of the conspiracy, the effectual means of its own entire protection and impunity. A principle of distrust, in respect to the evidence of accomplices, pushed to so extravagant an excess, would be equally repugnant to the obvious dictates of common sense, and the ordinary rules by which criminal justice is administered.

I forbear to detail to you the particulars, even in the limited extent in which they are at present known to me, of the treasonable designs and actings in charge against the prisoners, and which are about to be the objects of your enquiry. By forbearing to do so, every degree of prejudice which might by possibility affect, or be supposed to affect a future trial of any of the parties, will be obviated and excluded, and the ends of justice, I trust, attained with equal certainty, and with greater satisfaction.

If the same desperate chance of ultimate and effectual success in the object of the conspiracy, shall, in your judgment, appear to have preceded and accompanied this, which has fortunately attended many other dangerous and equally abortive treasons, you will, on that account only, require a greater degree of evidence to prove the existence of a conspiracy, formed and nurtured under such apparently hopeless circumstances; but when such proof is, if it shall be made to your satisfaction, your diffidence, on this head, will perhaps be succeeded by other sentiments —by those of surprise and horror. Of surprise, at the extravagant boldness of the enterprise—and of horror, at the tremendous consequences which its success might have occasioned.

Gentlemen of the Grand Jury, considering to whom I am addressing myself, I fear I may have already occupied too large a portion of your time. I have endeavoured, however, to explain to you, as summarily as I was able, the nature of those heads or branches of the crime of high treason, to which your

attention will probably be confined on the present occasion; the nature and meaning of the indictment which will probably be submitted to you; the proof which it will require, and such observations respecting the nature and quality of that proof, which is likely to be offered, as may enable you justly to estimate its effect and value, and to draw such conclusions from the whole, as reason and justice may require.

You will now proceed in the discharge of your duty, to the investigation of a subject deeply affecting the dearest interests of the prisoners and the public, with all the attention and impartiality which those important interests justly require at your hands, and I have no doubt that the result will be such, as a proper consideration of the subject and of your duty, in respect to it, ought to produce.

On the same day, the Grand Jury returned a true Bill against Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, for High Treason.

The Attorney General moved, that the Sheriff be required to deliver to Mr. White, the Solicitor for the affairs of his Majesty's Treasury, who is to prosecute for the Crown, a list of the persons returned to serve on the Jury, on the trial of this indictment, which was ordered; and the Sheriff immediately delivered the same to Mr. White.

The prisoners being set to the Bar, Lord Ellenborough informed them, that an indictment for High Treason was found against them; that a copy of it would be delivered to each of them, together with a list of the witnesses intended to be produced on their trial, and a list of the Jurors returned to serve thereon; that the Court proposed to adjourn to Saturday the 5th of February, when they would be arraigned, and their trials would probably be brought on upon Monday the 7th.

At the request of the prisoner Despard, Mr. Serjeant BEST and Mr. GURNEY were assigned his counsel.

The prisoner Graham stated to the Court, that himself and others of the prisoners, having been in close confinement, had not been able to retain Counsel or Solicitor.

Lord Ellenborough informed them, that when they had fixed upon their Counsel and Solicitor, they might be assigned, on application being made to either of the Judges in the Commission, at their chambers.

On the 24th of January, Mr. White, Solicitor for the Treasury, caused to be delivered to each of the prisoners, a copy of the indictment, a list of the petit jurors returned by the Sheriff, and a list of the witnesses to be produced by the Crown, for proving the said indictment.

SESSION-HOUSE, NEWINGTON,

Saturday, February 5th, 1803.

The Court met pursuant to adjournment.

PRESENT,

The Right Hon. Lord ELLENBOROUGH,
The Hon. Mr. Baron THOMSON.
The Hon. Mr. Justice LE BLANC.
The Hon. Mr. Justice CHAMBRE.

Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, were set to the Bar, and being arraigned, severally pleaded not guilty.

At the request of John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith,

and John Macnamara, Mr. JEKYLL and Mr. HOVELL, were assigned their Counsel.

The prisoners Counsel having signified that they should separate their challenges, the Attorney-General stated that he should proceed first on the trial of Colonel Despard.

The Court adjourned to Monday the 7th instant.

On Monday, February 7th, 1803, the Court met pursuant to adjournment, at nine o'clock in the morning.

PRESENT,

The Right Hon. Lord ELLENBOROUGH.
The Hon. Mr. Baron THOMSON.
The Hon. Mr. Justice LE BLANC.
The Hon. Mr. Justice CHAMBRE.

Counsel for the Crown.

Mr. ATTORNEY GENERAL,
Mr. SOLICITOR GENERAL,
Mr. Serjeant SHEPHERD,
Mr. PLUMER,
Mr. GARROW,
Mr. COMMON SERJEANT.
Mr. WOOD,
Mr. FIELDING,
Mr. ABBOT.

Solicitor.

JOSEPH WHITE, Esq. Solicitor for the Affairs of his Majesty's Treasury.

Counsel for Edward Marcus Despard.

Mr. Serjeant BEST, Mr. GURNEY.

Solicitor, Mr. PALMER, of Barnard's-Inn.

The Court being opened, and Edward Marcus Despard set to the Bar, the Jurors returned by the Sheriff were called over.

George Hibbert, Esq. and Merchant, excused.

John Allnut, Esq. and Wine Merchant, excused on account of deafness.

Frederick Perkins, Brewer, not a Freeholder of the county of Surry.

Anthony Brough, Esq. and Merchant, excused on account of illness.

William Esdaile, Esq. and Banker, challenged by the Crown.

John Kymer, Esq. and Merchant, challenged by the Prisoner.

Grant Allen, Gentleman and Merchant, sworn.

William Dent, Esq. sworn.

Robert Dent, Esq. and Banker, excused on account of age.

Anthony Francis Haldimand, Esq. and Merchant, not properly described in the pannel.

Isaac Railton, Esq. and Merchant, challenged by the Prisoner.

John Wedderburn, Esq. and Merchant, challenged by the Prisoner.

David Haynes, Esq. not properly described in the pannel.

Edward Knipe, Esq. called.

Mr. Serjeant Best. This gentleman holds a place in the Lord Chamberlain's office during pleasure.

Lord Ellenborough. That is no objection.

Edward Knipe, Esq. challenged by the Prisoner.

John Chatie, Esq. and Wine Merchant, excused on account of deafness.

Thomas Calverly, Esq. challenged by the Prisoner.

Thomas Puckel, Esq. and Merchant, challenged by the Prisoner.

Charles Rogers, Esq. and Merchant, challenged by the Prisoner.

Samuel Beddome, Esq. challenged by the Crown.

William Davidson, Esq. sworn.

Gabriel Copland, Esq. and Merchant, sworn.

Isaac Warner, Esq. and Coal Merchant, challenged by the Crown.

William Willis, Esq. and Banker, challenged by the Prisoner.

John Rogers, Esq. and Merchant, excused on account of illness.

Ralph Winstanley Wood, Esq. excused on account of illness.

John Mainwaring, Esq. challenged by the Prisoner.

John West, Esq. challenged by the Prisoner.

Samuel Seawell, Esq. not a Freeholder.

William Richard Haynes, Esq. excused on account of illness.

Isaac Bannister, Pawnbroker, not a Freeholder.

David Davidson, Pawnbroker, challenged by the Prisoner.

William Brandon, Broom-maker, excused on account of illness.

John Griffiths, Bedstead-maker, challenged by the Prisoner.

Simeon Warner, Coal Factor, challenged by the Crown.

Joseph Meymott, Surveyor, not a Freeholder.

Samuel Soloway, Tanner, challenged by the Crown.

Thomas Jackson, Coal Merchant, challenged by the Prisoner.

William Coxson, Lighterman, sworn.

William Knight, Gentleman, challenged by the Prisoner.

John Jackson, Coal Merchant, challenged by the Crown.

Samuel Smith, Timber Merchant, challenged by the Prisoner.

John Baker, Sail-maker, excused on account of illness.

Thomas James, Grocer, excused on account of illness.

James Vincent, Scale-maker, not a Freeholder of 10l. a year.

Charles Clowes, Brewer, not properly described in the pannel.

William Whittaker, Sail-maker, challenged by the Prisoner.

William Holcomb, Brewer, challenged by the Prisoner.

John Johnson, Woollen Draper, challenged by the Prisoner.

Matthew Clay, Taylor, challenged by the Prisoner.

William Weston, Tea Dealer, excused on account of illness.

William Skirrow, the elder, Hop Merchant, not a Freeholder.

William Westall, Haberdasher, challenged by the Prisoner.

John Farmer, Hop Factor, sworn.

Thomas Irvine, Hop Merchant, challenged by the Prisoner.

Thomas Johnston, Carpenter, not a Freeholder.

Henry William Coffin, Esq. and Hop Merchant, challenged by the Prisoner.

John Evans, Esq. and Hop Merchant, excused on account of illness.

Daniel Slade, Hop Merchant, not a Freeholder.

Robert Maynard, Tinman, excused on account of illness.

Jacob Mills, Dyer, excused on account of age.

John Davis, Esq. challenged by the Crown.

Thomas Walker, Wool Stapler, challenged by the Prisoner.

John Varnham, Gentleman, excused on account of illness.

Robert Rich, Rope Maker, challenged by the Prisoner.

Nathaniel Carrol, Tallow Candler, challenged by the Crown.

Jacob Hagen, Stave Merchant, one of the people called Quakers.

James Bridges, Cooper, challenged by the Prisoner.

William Martin Carter, Builder, not a Freeholder.

John Collinson, Hatter, sworn.

James Lukin, Founder, not a Freeholder.

James Webber, Merchant, sworn.

Gilbert Handyside, Founder, sworn.

John Hamer, Lighterman, sworn.

John March, Esq. and Merchant, challenged by the Crown.

Peter Dubree, Esq. and Merchant, sworn.

Richard Bancroft, Esq. excused, being an Apothecary and Man Midwife.

Robert Edmonds, Gardener, challenged by the Prisoner.

John Howard, Coal Merchant, not a Freeholder.

Thomas Brooks, Baker, not a Freeholder.

Joseph Watson, Starch Maker, not a Freeholder.

Henry Meader, Gentleman, not a Freeholder.

John Fentiman, Builder, challenged by the Prisoner.

Thomas Willmott, Gentleman, not a Freeholder.

Isaac Bates, Brick Maker, challenged by the Crown.

Thomas Hammond, Victualler, not a Freeholder.

Timothy Hill, Ironmonger, not a Freeholder.

Henry Buckley, Floor Cloth Painter, not a Freeholder.

John Field, Wax Chandler, sworn.

THE JURY.

Grant Allen.	John Collinson.
William Dent.	James Webber.
William Davidson.	Gilbert Handyside.
Gabriel Copland.	John Hamer.
William Coxson.	Peter Dubree.
John Farmer.	John Field.

The Clerk of Arraigns charged the Jury with the prisoner, in the usual form, on the indictment.

THE INDICTMENT.

[*First Count*]—That the Prisoners as false Traitors &c. on the Sixteenth Day of November, in the Forty-third Year of his Majesty's Reign and on divers other Days as well before as after at the Parish of St. Mary Lambeth in the County of Surry maliciously and traitorously with Force and Arms *did conspire compass imagine and intend to bring and put our said Lord the King to Death*

[*First Overt Act*]—That the Prisoners on the Sixteenth Day of November in the Forty-third Year of the Reign aforesaid and on divers other Days and Times as well before as after did traitorously conspire combine consult consent and agree and attempt and endeavour to seduce divers Soldiers and Persons serving in the Forces of the King by Sea and Land and particularly one *William Francis* one *Thomas Blades* one *John Pike* one *Robert Tomlinson* one *David Morgan* one *Joseph Dixon* one *Thomas Windsor* one *James Baylis* one *Job Roberts* and one *John Rogers* then and there being Soldiers and Persons serving in the Forces of our said Lord the King by Land and also divers other liege Subjects of the King from their Duty and Allegiance to the King and to move procure and persuade the same and other Soldiers Persons and Subjects to unite themselves to and join and associate with and be aiding and assisting to them the Prisoners and divers other false Traitors in a wicked and traitorous Attempt to be by them made with Force and Arms to subvert the Government and Constitution of this Realm and to depose the King and to attack set upon seize imprison kill and destroy the King

[*Second Overt Act*]—That the Prisoners on the Sixteenth Day of November in the Forty-third Year of his Majesty's Reign and on divers other Days with Force and Arms at the Parish aforesaid in the County aforesaid maliciously and traitorously did conspire combine consult consent and agree and attempt and endea-

vour to administer and cause to be administered to and to be taken by one *William Francis* one *John Pike* one *John Bird* and other of the Subjects of the King divers Oaths and Engagements intended by them the Prisoners to bind the same Subjects taking the same to be and become Members of and to be aiding in divers traitorous Associations Combinations and Confederacies of them the said Prisoners and divers other false Traitors by them formed combined and confederated together for the wicked and traitorous Purposes of subverting by Force and Arms the Constitution and Government of this Realm as by Law established and of deposing and of destroying assassinating and murdering the King

[*Third Overt Act*]—That the Prisoners and such other Traitors as aforesaid on the said Sixteenth Day of November in the Year aforesaid with Force and Arms at the Parish aforesaid in the County aforesaid secretly unlawfully and traitorously did obtain and procure and in their Custody and Possession did have and keep divers printed and written Cards and Papers containing the Form and Words of divers Oaths and Engagements purporting to bind the Persons taking the same to be of a certain Association Society and Confederacy and not to give Evidence against any Associate Confederate or other Person belonging to the same or any other similar Society with Intent and in Order to administer the same Oaths and Engagements and cause the same to be administered to and to be taken by divers Subjects of the King and thereby and by Means of the same Oaths and Engagements to bind the said Subjects to be and become Members of and to be aiding and assisting in divers wicked and traitorous Associations Combinations and Confederacies of them the Prisoners and other false Traitors by them formed combined and confederated together for the wicked and traitorous Purposes of subverting by Force and Arms the Constitution and Government of this Realm as by Law established and of deposing destroying assassinating and murdering the King

[*Fourth Overt Act*]—That the Prisoners and such other Traitors as aforesaid on the said Sixteenth Day of November in the Year aforesaid with Force and Arms at the Parish aforesaid in the County aforesaid traitorously did administer and cause to be administered to and to be taken by one *Thomas Blades* one *Thomas Windsor* and divers other Subjects a certain Oath and Engagement purporting to bind the persons taking the same to be of a certain Association Society and Confederacy and not to give Evidence against any Associate Confederate or other Person belonging to the same or any other similar society with intent thereby to bind the said *Thomas Blades Thomas Windsor* and the said other Subjects to be and become Members of and to be aiding and assisting in divers wicked and traitorous Associations Combinations and Confederacies of them the Prisoners and other false Traitors by them formed combined and confederated together for the wicked and traitorous Purposes of subverting by Force and Arms the Constitution and Government of this Realm as by Law established and of deposing and of destroying assassinating and murdering the King.

[*Fifth Overt Act*]—That the Prisoners and the other false Traitors as aforesaid on the said Sixteenth Day of November in the Year aforesaid with Force and Arms at the Parish aforesaid in the County aforesaid did maliciously traitorously secretly and advisedly with Force and Arms meet propose treat consult conspire consent and agree by lying in wait and by attacking the Person of the King to assassinate kill and murder the King and the sooner and better to execute and perpetrate the said horrid Assassination and Killing they the Prisoners did with other false Traitors maliciously secretly advisedly and traitorously treat propose and consult of the Ways Manner and Means and of the Time and Place how and in what Manner and when and where they and the other Traitors might by so lying in wait and attacking the Person of the King the more easily assassinate and kill the King

[*Sixth Overt Act*]—That the Prisoners and the other false Traitors as aforesaid on the said Sixteenth Day of

November with Force and Arms at the Parish aforesaid in the County aforesaid did maliciously traitorously secretly and advisedly meet propose treat consult conspire consent and agree by themselves and with other false Traitors with Force and Arms to attack and seize upon the Bank of England and the King's Tower of London and to seize and take Possession of the Weapons Arms and Ammunition therein and in divers other Magazines and Places in and in the Neighbourhood of London found and being in Order by and with the said Weapons Arms and Ammunition to arm themselves and other false Traitors and to fight with kill and destroy the Soldiers Troops and Forces of the King and other his liege and faithful Subjects and to raise levy and make Insurrection Rebellion and War against the King within this Kingdom

[*Seventh Overt Act*]—That the Prisoners on the said Sixteenth Day of November with other false Traitors with Force and Arms at the Parish aforesaid did wickedly maliciously secretly advisedly and traitorously meet propose treat consult conspire consent and agree to obtain procure and provide Weapons Arms and Ammunition and therewith to arm themselves and divers other false Traitors the better and more effectually to set upon attack assassinate kill and murder the King and all their traitorous Compassing Conspiracies Consultations and Agreements Devices and Intentions aforesaid to accomplish and fulfil

[*Eighth Overt Act*]—That the Prisoners on the said Sixteenth of November with Force and Arms, at the Parish aforesaid did among themselves and together with other false Traitors maliciously secretly advisedly and traitorously meet propose conspire consent and agree that divers of them the Prisoners and of the said other false Traitors should on the Day when the King should next go to meet the Lords Spiritual and Temporal and Commons in Parliament assembled lye in wait for and set upon attack shoot and fire at the Person of our said Lord the King and that others of them the Prisoners and of the said other false Traitors should surround beset and make themselves Masters of

the House and Places wherein the Lords and Commons of this Realm were then expected to meet and assemble together in Parliament and should also attack and seize upon the Bank of England and the Tower of London and should seize and take possession of the Weapons Arms and Ammunition therein and in divers other Magazines and Places in and in the Neighbourhood of London found and being in Order thereby and therewith to arm themselves and to fight with kill and destroy the Soldiers Troops and Forces of the King and other his faithful and liege Subjects who should be true to the King and to the Government and Constitution of this Realm as by Law established and should stop and detain the Mail Coaches and other Carriages usually travelling from London to divers Parts of this Kingdom and prevent the same from setting out or departing from London as a Signal and Notice of the same Attacks and Proceedings to divers other false Traitors dwelling and being in divers Parts of this Kingdom and as an Incitement and Encouragement to them to raise levy and make Insurrection Rebellion and War and a cruel and bloody Slaughter of the King's liege and faithful Subjects within this Kingdom against the Duty of the Allegiance of the Prisoners against the Form of the Statute and against the Peace of the King

[*Second Count*]—That the Prisoners as false Traitors on the said Sixteenth Day of November in the Forty-third Year of the Reign of his Majesty with Force and Arms within this Realm to wit at the Parish of St. Mary Lambeth in the County of Surry maliciously and traitorously did conspire compass imagine invent devise and intend Imprisonment and Restraint of the Person of our said Lord the King and the same traitorous Compassing Imagination Invention Device and Intention last mentioned did then and there express utter and declare by divers Overt Acts and Deeds therein aftermentioned that is to say

The Indictment then states the several Overt Acts similar to those in the First Count, and states that each

of the Overt-acts were *for the Purpose of seizing, taking, restraining, and imprisoning the Person of the King.*

[*Third Count*]—That the Prisoners as such false Traitors as aforesaid on the Sixteenth Day of November in the Forty-third Year of the Reign of his Majesty with Force and Arms within this Realm to wit at the Parish of St. Mary Lambeth in the County of Surry maliciously and traitorously did conspire compass imagine invent devise and intend to deprive and depose the King from the Stile Honour and kingly Name of the Imperial Crown of this Realm

The Indictment then states eight several Overt Acts similar to those mentioned in the First and Second Counts in the Indictment, concluding that such Overt Acts were *for the Purpose of deposing the King from the Stile Honour and kingly Name of the Imperial Crown of this Realm.*

The Indictment was opened by Mr. Abbot.

MR. ATTORNEY GENERAL.

May it please your Lordship,

Gentlemen of the Jury,

It is so obvious that attention is excited in proportion to the importance of the subject to which it is to be directed, that I cannot permit myself to entertain a doubt but that you are already sufficiently acquainted with the important nature of your present enquiry, to insure to my address, and much more to the evidence which will follow it, the utmost attention you can bestow. I say the importance of the enquiry insures it to me; for there cannot be, either as it respects the Gentleman at the Bar, or as it respects the interests of the public, a more important question submitted to judicial determination than the question of guilt or innocence, upon a charge of High Treason. As it respects the interests of the Prisoner, we are all aware that his fortune, his reputation, every thing that is valuable to him in life, and his life itself, absolutely depend upon it; and as it respects the interests of the public, nothing, surely, can be well more important than that a charge of an attack meditated against its best interests in the person of our beloved Sovereign, should be carefully and duly examined, and that the Conspirators in so base a crime, if such crime be proved to have existed, should be delivered over to that punishment which the Law has so justly provided for their offence.

Gentlemen, I am however ready to admit, what no doubt the Counsel for the Prisoner would be glad to have brought forward to your attention, that the great depravity which is required to conceive and to execute a crime of such extensive mischief, so far from operating to create any prejudice against the Prisoner, ought rather to give him a fairer claim to the utmost benefit of that indulgent and salutary principle of our Law,

which holds every man to be innocent till he is proved to be guilty; and, therefore, he will unquestionably be entitled to that, which I am sure he will experience at your hands, that the charge should be well watched, that the evidence should be well sifted, and that your minds should be most satisfactorily convinced of his guilt, before you think of pronouncing a verdict against him. But, Gentlemen, you will give me leave to express a most confident expectation, that if the fact be satisfactorily proved, if the evidence do distinctly make out the charge, then there will not, because there ought not to be, any more hesitation in your minds in pronouncing that same verdict of guilty in this case of Treason, than there would be in any other of a capital charge. The considerations to which I have alluded ought, as I have said, to lead Juries to be jealous in their examination of the evidence because it is but reasonable to expect clearer and stronger evidence to support a charge of that description of guilt, from which every human feeling would revolt, than of any other lighter description of offence, from which the human mind might be restrained by less binding and less multiplied obligations of sentiment and duty.

And, no doubt, these considerations have in some degree occasioned those various cautions and guards which the Law has set round the case of a Prisoner, charged with an offence of this description. I say, Gentlemen, in a certain degree, because, unquestionably, they have not been occasioned by them. It must be acknowledged, that the apprehension of fabricated charges being brought against individuals for state purposes, and being unduly and wickedly supported by the weight of Government, have been the great causes of many of those provisions. But without waiting to enquire with what degree of justice such apprehension, as applied to former Governments, may have been entertained, I think we may say, not with respect to any individuals who are concerned in the Government, but with respect to the times in which we live, that such a base suspicion can have no existence. Nor, Gentlemen, does it seem to

me that it requires, in these times at least, any nice degree of honour, of morals, or of religion, to prevent any Government from meditating to act upon such wicked motives. The lowest, most contracted, interested prudence alone would be quite sufficient to protect the public and individuals from such unjust proceedings; for, I am persuaded, every one will agree, that it would be impossible for any state purpose to be answered by any conviction to be procured by such means, which would give any degree of benefit to the individuals who procured it, that could in the slightest degree compensate for that load of infamy and just disgrace with which their characters hereafter, and their interest at present, would be loaded, if they could be supposed to be guilty of such a crime.

If, however, any one should, from jealousy of power, be indisposed to admit the truth of this observation, as generally applicable to the times in which we live, yet in these trials, and upon this occasion, there is not the slightest possible ground for suspecting it; for I think we may congratulate ourselves that we have the good fortune to be assembled to the discharge of this duty, serious and anxious as it must be under any circumstances, in a case, however, in which there is no other interest attached to the decision of it, than what must always necessarily await an inquiry of so important a nature, in which there is no political, no party, no factious consequence either apprehended or hoped for, as likely to ensue from the event, one way or the other: in which no clamour, no prejudice has been excited, or does exist; in which the public mind is even upon the subject; and in which, therefore, the fact comes to be enquired into, under circumstances the most auspicious for truth and for justice.

Gentlemen, it is not perhaps very necessary, but still it may be no unpleasing circumstance to state to you, that there is another circumstance favourable to the due determination of this enquiry, namely, that the trial is not likely to be extended to any inordinate length; and I trust, that evidence of no very great extent will fully develope the whole of the case. All

that will be necessary to attend to in the investigation of it, will be sufficiently compressed, to enable us to dispose of it without the inconvenience and interruption of an adjournment. I must remember, however, that any superfluous observations on my part, will tend to impair this advantage. I trust, however, that those which I have submitted to you, will not be deemed superfluous. They have been offered certainly, with no other object, than that while I was awakening your minds to the important nature of your present duties, I might remove every possible degree of prejudice which might exist in them, either as against the prisoner, or against the charge, and thereby produce that unbiassed and unprejudiced state of impartiality, which is, on all occasions, so essential to justice.

I shall now proceed to state to you, with as much brevity as I can, the outlines of the case, and of the evidence, by which the charge will be proved; but I am sure you would not wish me, for the sake of brevity, to sacrifice the more important object of perspicuity. I shall endeavour, in as narrow a compass as I can, to possess you with those facts and those observations, which seem to me the best calculated to enable you to appreciate the evidence as you shall hear it, and to apply it with its due weight to the charge.

Gentlemen, the indictment against the prisoner, the substance of which has been very accurately and distinctly stated to you already, contains a charge of High Treason alledged against him in three distinct Counts, each of them alledging a distinct treasonable intention. The first Count containing the charge of intending and compassing the death of the King, is framed under the old Statute of king Edward III. The second charge, of intending and compassing the imprisonment and restraint, and the third, the deposition of the king, are framed under a more recent Act of Parliament, that has passed subsequent to the late trials of High Treason at the Old Bailey; under which Act of Parliament, the intention to imprison and restrain, and the intention to dethrone, are made substantive acts of treason. A fortunate circumstance,

perhaps, this likewise for your enquiry, because that Statute having made these two intentions distinct, independent, and substantive acts of treason; it is very probable, as it certainly is very desirable, that the fact will go to you, unembarrassed with any disputed question in point of law, between the counsel on one side, and the other. For whatever question may upon former occasions have been raised, how far the intention to put any restraint upon the person of the King, the intention to dethrone him, or the intention to overturn his government, did, or did not, necessarily carry with it, the intention of putting an end to his life, is now removed from any necessity of enquiry, or of argument; because, as I have stated, this Act having made these two intentions independent of any of their consequences, substantive acts of treason themselves, there will be no necessity for raising that question. For if the evidence should satisfy your minds, that those overt acts which I shall presently state, or any of them, are proved to have been done by the prisoner, with any one of these three intentions, the charge will be proved, and your painful duty of pronouncing your verdict against him, will necessarily arise.

You probably are aware, gentlemen, that however criminal the intention may be, that the law requires that such criminal intention should be manifested by some act, before it can be fixed upon any man. By some overt act, as the law technically calls it, some overt act tending to indicate, and to manifest that intention, some step taken, some act done in prosecution, and in furtherance of such intention.

The overt acts, in this case, as they have been already stated to you, I shall state but shortly. I may describe them as falling under two different classes. The first four overt acts of treason, stating a conspiracy by various modes, to seduce soldiers and others from their allegiance, and to make them become confederates with the prisoners, in the prosecution of their treasonable designs; and the other four counts, constituting the second class, detail various meetings for

the purpose of carrying into effect, the treasonable intentions that are there laid. The first overt act charges them with conspiring to seduce soldiers and others from their allegiance and duty, and to seduce them to assist the prisoner in a traitorous attempt to be made to subvert the government and constitution, and to kill the King. The second charges them with attempting to seduce the persons there named, to take oaths and engagements to become members of associations, formed for this treasonable purpose. The third charges them with having copies of oaths and engagements in their custody, for the purpose of being administered to persons, to engage them to become members of such confederacy. And the fourth charges them with actually administering such oaths for such purposes. The fifth, which begins the other class of overt acts, charges them with conspiring, by laying in wait to attack the King and murder him, and for that purpose, with meeting and consulting as to the means of effectuating that purpose. The sixth charges them with conspiring to attack and seize the Bank, and the Tower, and other magazines, where it was likely they might find the means of furnishing themselves with arms, with which they might resist the King's forces. The seventh charges them with conspiring and agreeing to procure arms, to enable them to exert themselves in the same manner. The eighth charges them with agreeing upon the day, when the King should next go to meet his Parliament, that he should be laid in wait for, attacked, and shot. At the same time, that the Tower should be attacked, the Bank, and other depositaries of arms; and that the usual coaches which set out from this town, should be stopped for the purpose of giving notice to their confederates in the country, by whom they expected to be supported.

Gentlemen, it will here be convenient to state the nature of an Overt-act. To constitute an Overt-act of treason, it is not necessary that the act should, in its immediate and necessary consequences, lead to the completion of the design; but there can be hardly any act done with the intention of effectuating a trea-

sonable design, that is in any degree capable of conducing to its completion, but what may be an Overt-act of High Treason, let the act, independent of such intention, be ever so innocent in itself: for instance, the getting into a boat upon the river Thames, in itself, independent of any intention with which it might be connected, nothing could be a more innocent act; yet the act of getting into a boat upon the river Thames, with a view afterwards of going to France, for the purpose of procuring an invasion of this country, was the Overt-act charged upon Lord Preston, upon which he was convicted. Nothing can be a more innocent act in itself, than putting a letter into the post, but if that letter contains in it some incitement and encouragement to acts which it would be treason in the person writing the letter to incite or encourage; putting such letter into the post, with knowledge of its contents, is an Overt-act of High Treason, and is the act on which Doctor Hensey and others have been convicted; so here nothing could be a more innocent act than having a card or paper in a man's pocket; but if that card or paper contains the form of a treasonable engagement, purporting to bind persons to such engagement for the purpose of associating to carry into effect some treasonable purpose, the mere possession of that paper, with an intention of so employing it, is, I apprehend, clearly and unquestionably, an Overt-act of Treason.

Having thus explained to you the nature of this indictment, and the charges which it contains, there is one other observation connected in a degree with the legal consideration of this trial, which I would just state before I proceed to the facts; and that is, that the Treason is charged to be accomplished by the way of a conspiracy, and there is this peculiarity attending the charge of a conspiracy, that on the trial of that charge, there are two questions submitted to the Jury to which consequently the evidence is to be applied. The first a general question, whether any such conspiracy has existed or not? The next, whether, supposing that conspiracy to have existed, the indivi-

dual against whom it is charged, is proved to have been a party to it.

With respect to the first question, whether or not any such conspiracy has existed? It is obvious that evidence of the act of any of the conspirators is admissible upon the trial of every one, whether done in the presence or not of the Prisoner under trial, because the extent, the nature, and the object of a conspiracy, to be carried on by the agency of a great number of individuals, cannot by any other means be discovered than by proof of the acts of those individuals. But whether or not that crime so proved upon the first and general question to have had existence, is fairly applied to the Prisoner under trial, must depend upon evidence strictly applicable to himself, that is evidence of his own acts, or of acts done with his privity and knowledge; and it is only by such evidence that any individual can be found guilty of that crime of conspiracy, the existence of which may have been proved by general evidence.

Having thus endeavoured to lay before you the nature of this indictment, and the mode by which the charges are capable of being supported in evidence, I shall proceed to state to you the facts of the case. It may perhaps be convenient to give you again the names of the different persons who are charged in this indictment; they are the Prisoner at the Bar, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara; of these thirteen Prisoners, eleven, including the Prisoner at the Bar, were taken up on the 16th of November, at the Oakley Arms, at one of the meetings, charged by this prosecution to have been treasonable. Gentlemen, though for reasons that I shall presently state to you, I propose in the course of this evidence to begin with proving the seizure of the Prisoner at this place, and the circumstances attending that seizure; yet I think it will be more convenient, in point of narration, to begin with

what I shall have to detail to you of their transactions at an earlier period, and then bring down the history of the conspiracy to the period of this apprehension; and in endeavouring to detail to you the earlier transactions of these conspirators, I shall not take you to a more distant period than somewhere about the spring of the last year. I think it will appear that about the month of March, in the last year, a detachment of the guards, to which one of these Prisoners, John Francis, belonged, returned from duty at Chatham Barracks, and you will find shortly after their return, the clearest evidence of the existence of a conspiracy, for the purpose of overturning the Government and Constitution of this Country.

Gentlemen, you will find this John Francis, whom I have named, and Wood, another of the Prisoners, who is a soldier likewise, and a particularly active member of this conspiracy, proved to be frequently endeavouring to seduce soldiers and others from their allegiance, to become members of the association to which they expressed themselves to belong, and which they described as an association of gentlemen who were desirous of giving the people their liberties and their rights. You will have it in evidence, that this John Francis particularly administered some unlawful oaths and engagements to persons to become members and confederates of this association; you will find him attempting to administer similar oaths to others, without success; you will find him in particular administering that oath to two witnesses whom we shall call to you, two soldiers of the names of Blades and Windsor; and about the time when he administered the oath to Windsor, you will have it in proof that he delivered two or three copies of it to him for the purpose of being employed by him in the same way; it will appear that Windsor, very shortly after he had taken this oath, whether dissatisfied with the nature of the engagement in which he had entered, or from what other motive you will best be able to collect from his evidence, and the other evidence that will appear, thought proper to communi-

cate to a Mr. Bownas, whom likewise we shall call as a witness, the existence of this conspiracy, and, at the same time, that he produced to him one or two copies of this oath, which had been so furnished to him by Francis. Fortunately Mr. Bownas has preserved that paper, which was so delivered to him by Windsor; he will produce it to you in evidence in this cause, and he and Windsor will state, that, in consequence of this communication, Windsor was advised by him to continue meeting this association, for the purpose of discovering whether there were or were not any persons of consequence connected in this scheme.

You will find the copy of this oath and engagement a most important subject of your attention and examination; you will find it to be most important evidence in this cause, not only because it is incapable of innocent interpretation; not only because it will appear to be incapable of any other interpretation, than that of endeavouring to procure confederates for this treasonable purpose, but because you will find it furnishing a medium, or chain of connexion in the proof, between several of the persons who are charged with this conspiracy; for you will have in evidence, not only that John Francis administered these oaths, but that John Wood did the same; you will have likewise in evidence, that the Prisoner at the Bar tendered an oath of this very description to a witness whom we shall call; you will find likewise, that at the time of the apprehension of these Prisoners, upon the 16th of November, three similar papers were found in the possession of a Prisoner of the name of Broughton, that one was found in the pocket of a Prisoner of the name of Phillips, and that another was found, discarded by some of the parties, upon the floor of the room in which they were assembled. Attaching, as I do, so much consequence and importance to this piece of evidence, I think it will be necessary, at least it will be useful, that I should possess you, at this early stage of the cause, with the contents, the substance, and the effect of it: some copies of it are roughly printed upon paper, others are

fairly printed upon cards, the cards and papers containing the same words—the words are these:

" Constitution—The independence of Great Britain " and Ireland—An equalization of civil, political, and " religious rights—An ample provision for the families " of the heroes who shall fall in the contest—A liberal " reward for distinguished merit—These are the objects " for which we contend, and to obtain these objects we " swear to be united."—This is the preface to the oath; then follows the oath—" In the awful presence " of Almighty God, I, A. B. do voluntarily declare, " that I will endeavour, to the utmost of my power, " to obtain the objects of this union, namely, to re- " cover those rights which the Supreme Being in his " infinite bounty has given to all men; that neither " hopes, nor fears, rewards, nor punishments, shall ever " induce me to give any information, directly or indi- " rectly, concerning the business, or of any member of " this or any similar society, so help me God."

I have myself had the frequent opportunity of observing, when persons have been charged either with seditious motives or with treasonable motives connected with their political pursuits, that it has been not unfrequent to endeavour to prevail upon the Jury, who were to try that charge, to believe, that their objects were merely some alteration, in the nature of a reform, in the existing frame of things, to be obtained by legal, by regular, by peaceable, by constitutional means. I have no gift of prophecy; I know not whether any such attempt at construction will be put upon this paper. Perhaps, however, it may, and as far as the word *Constitution* describes the object of these persons, understanding it, as in candour and fairness we ought to understand it, the Constitution of our own Country, unquestionably there would be no quarrel with them on that account. With respect to the independence of Great-Britain and Ireland, if by that is meant the independence of the united kingdom of Great-Britain and Ireland from all foreign authority and control, undoubtedly there could be no objection to such an ob-

ject; but if by the independence of Great-Britain and Ireland, the disunion and separation of the two was intended, I am sure you will not suspect me of intending to admit, that that would be an innocent object. "An equalization of civil, political, and religious rights." I have heard, indeed, not unfrequently, very strained attempts made, to soften down objects so described. I have heard it argued, that by such terms nothing more was meant, than the equal right to the equal administration of justice under equal laws, and the equal protection, under those laws, to the unequal proportion of property, or of any political right or privilege, which a subject might, constitutionally, possess. It would be difficult, I think, to put that construction upon these words; nay, it seems to me to be clear, that an annihilation of all distinctions and inequalities in rank, property, or political right whatever, is the fair, the reasonable, and the necessary interpretation of them; and, indeed, that any other interpretation cannot be the meaning of this paper is obvious to demonstration, for if the equal right to equal justice was the object of these parties, it is that which every Englishman does enjoy under the British Constitution, in an infinitely greater degree, than any man in any other age or situation in the world ever did enjoy; it therefore could not be an object for which they would have to *contend*; it could not be an object to obtain which they would be united; it would not be an object or right, which God of his infinite bounty having given to all men, it was their purpose to *recover*. These are expreſſions, that are not applicable to any mere improvement in existing circumstances, but they plainly demonstrate an intention of obtaining something which they had not before. But, Gentlemen, if peaceable means, if constitutional means were the means by which they were to procure these constitutional objects, surely, surely, there would be no room for heroism in a contest of that description; surely there would be no danger of any of the persons engaged in it falling in the contest; the contest in which a hero is to fall, must be necessarily not a contest of mind, of

argument, and of reasoning, but of bodily strength, opposed to existing power, if not to existing laws. I think, therefore, that this oath is perfectly incapable of innocent interpretation; and I trust, what I have already said is sufficient to characterize and develope the nature of it, and sufficient likewise to characterize and develope the nature of that society which was formed upon this oath, as constituting the bond of union among its members. If, however, ingenuity can be so applied to this paper as to make it equivocal in its interpretation, then the rest of the evidence, and the conduct of the conspirators will, I trust, sufficiently remove that ambiguity.

Gentlemen, I was stating to you, that the Prisoners, Francis and Wood particularly were found to be active members of this conspiracy and that they were administering oaths of this description; you will find by the evidence that about the middle of the summer they thought it inexpedient to meet always at the same place; that for the purpose of avoiding suspicion, they agreed to meet at different places; and in the course of the evidence, I think, I shall have to shew to you a great number of different public houses at which they met; the names of some occur to me, the Ham and Windmill, in Windmill-Street, near the Haymarket; the Black Horse, Oxford Road; an alehouse of the same name in St. Giles's; the Bleeding Heart, in Charles-Street, by Hatton Garden; several public houses near the Tower, in the Mint, in the Borough; the Flying Horse, at Newington, in this County, and the Oakley Arms, in St. George's Fields, are some of those which occur to me at the moment.

Gentlemen, you will have it in evidence, that at those meetings, some part of the plan was to seduce the soldiers; and in order to prevail upon them to come there, to treat them with refreshment. Several soldiers will be called who were thus invited by the Prisoners; they will tell you, that at those meetings it was customary to have toasts given, and sentiments favourable to liberty, and the extension of rights; that it was not unfrequent to have consultations held with

respect to the necessity of an extension of the rights of the subject, and intimating that an improvement, according to the model of France, would be a good thing to be adopted. You will find attempts made to procure from soldiers, signatures and engagements to unite with them; and though some of them unfortunately listened too much to the invitation, others you will find from the first revolted at it.

Gentlemen, in the course of the summer, the Prisoner John Francis, was ordered with his detachment of the Guards on duty to Windsor. It will be necessary to follow him and Wood there. You will find them pursuing the same plan of endeavouring to administer oaths there to soldiers; and to a person we shall call who is not a soldier. At the same time the other conspirators were not idle in town; there was a communication kept up between them. We shall shew by the evidence of a person of the name of Connell, that Wratten, one of the conspirators, was sent down to Windsor for the purpose of communicating with some soldiers there; that he returned back; and that he had the expences of his journey paid him by the society. Wratten was accompanied by one or two more upon this mission. Similar meetings, of which I shall not trouble you with any particular account, were continued for the summer months of July, August, and September; and at some of these you will hear a little of what passed. But I own to you, I am desirous in my opening, and shall rather be desirous in the evidence, to run over this part of the case as cursorily and generally as possible, my object being in entering into it at all, more to furnish you with a general idea of the nature and plan of the conspirators, and of the means which they adopted for the purpose of enlarging and strengthening their numbers. In the course of the evidence you will find some very extravagant projects which will be spoken to by one or two of the witnesses; particularly about the time of Bartholomew Fair; it was the eager wish of Francis, and some others of the soldiers, to have the day appointed for actually making an attempt upon the

Tower. I state this to you shortly; I only just mention it, because, I do not really place much reliance upon it, because as far as respects Colonel Despard upon this occasion, he will be proved to have interfered in restraint of the too great precipitation of his confederates. But you will find, that on the day in which some of these extravagant traitors meditated actually carrying this project into effect at the Tower, the Prisoner was upon Tower Hill, and had influence and authority to disperse them, acquainting them that the time was not yet ripe.

I shall hasten in the statement of my evidence to the latter scenes of this conspiracy; because, during the earlier part of it, excepting in the instances I have stated, and that I referred to lately, of endeavouring to administer these unlawful oaths, the evidence will not bring him very forward in the conspiracy. But when it appeared to approach a little more to its maturity, Colonel Despard appears a more conspicuous character. The events of the last week previous to his arrest, will furnish me, I think, with no less than four opportunities of shewing him connected with these conspirators in most treasonable communication upon the design.

On the Tuesday preceding the Tuesday on which they were arrested, on the 9th of November, he was at the same Oakley Arms, in company with some of the same traitors, in whose company he was found on the 16th. Broughton is a name I particularly recollect, who, I think, was the person that invited the witness, I shall call to prove his having been there, and represented to him that the time was now approaching when it was intended that a great stroke should be struck. You may recollect, that his Majesty had intended to meet his Parliament the last Session a week sooner than he actually did; it was intended he should have met Parliament on the 16th instead of the 23d; and on the 16th it was the intention of these conspirators, supposing his Majesty had on that day gone down to the House, to have carried into effect this plan of destroying him. On the night of the 9th of Novem-

ber, I shall shew the Prisoner to have been present amongst these conspirators. I shall prove him likewise to have been present at a meeting that will be very particularly deserving of your attention on the Friday. The same Broughton will be proved to have prevailed upon two persons, whom we shall call to you as witnesses, Windsor one of them, and Emblin another, to go on the Friday to the Flying Horse, at Newington, Broughton telling them that if they went they would meet a nice man there, and find that things were in a fine train; they accordingly went, and the fine man whom they there found, and to whom they were there introduced, was Colonel Despard, the Prisoner at the Bar.

Gentlemen, I am sure you will go along with me in thinking, that an accurate detail of conversations will be much better stated by the Witnesses than by any relation of mine; but it will be proper for me just to give you the general tendency of the conversation which passed. That meeting lasted about two hours, and the plan of carrying this treason into execution was the main subject of conversation. The mode in which the Tower was watched and guarded was one topic of conversation, with a view to see what facilities or difficulties might attend an attack upon that place. The principal thing, however, which will require your consideration was the plan of intercepting the King in his way down to the Parliament House; this was discussed; the difficulties attending it, the mode in which these difficulties were to be met, and got rid of, were parts of the conversation supported by different persons. I think it was Broughton suggested, that one good way of doing it would be to shoot the horses of the coach, and then the coach would necessarily stop; upon that it was observed by one of them, that the Life Guards who were surrounding the coach, would cut down any man that attempted to approach it; and on this occasion the Prisoner at the bar made use of expressions which will be particularly spoken to, and will be particularly worthy of your attention. Upon its being stated that the Life

Guards would resist any attempt that should be made upon the coach, and cut down any man that should approach it, and on its being asked who would be found to do it, he said, that if no one else would do it, he would do it himself, accompanying it by an expression strongly demonstrative of the turn and frame of his mind at that moment, and of the desperate extent to which he meant to carry his treason; accompanying his expression with no less remarkable words than these, I have well weighed the matter, and my heart is callous. Gentlemen, this cannot be equivocal; callous indeed must be the heart which meditated the plan that I charge against him; and the expression could hardly be used with reference to any other.

At this meeting, Windsor was introduced for the first time to Colonel Despard, he recognized his name, and stated, that Wood had mentioned Windsor to him, and he therefore desired Windsor to meet him on the Monday next, with three or four more clever fellows, soldiers, at the Tyger public house, on Tower Hill. Windsor, according to the appointment, went to the Tyger public house, on Tower Hill, on the next Monday, the 15th November. Colonel Despard came there; for some reason or other it was not a convenient place; it did not suit him to enter into conversation there, and he proposed that they should adjourn to Whitechapel, and as it might be an aukward circumstance for him to appear in the streets with Windsor and another soldier, for Windsor had brought another soldier of the name of Winterbottom with him, who were in their uniforms, as it might raise some suspicion for the Colonel to be seen walking in the ſtreets between two common soldiers, he therefore proposed, that they should go by different ways, and meet in Whitechapel; they did so, Colonel Despard desired them to wait for him while he was making some enquiries after a soldier he wished to see, which they did accordingly. The Colonel soon returned with a man of the name of Heron, a discharged soldier, and then they all went together to another public house, the Coach and Horses, in Whitechapel; there, the Colonel, Heron, Windsor,

and Winterbottom, had some bread and cheese and porter, or ale; some refreshment of that sort. It fortunately happened, that there were two other soldiers who were quartered at this house, they were invited to partake of the cheer that was going on; having dined, however, they declined eating with them, but they partook of their liquor.

The conversation which passed between Colonel Despard and Windsor at this place, will be certainly an important subject for your consideration; and that some conversation passed between them upon this occasion will be confirmed by those two soldiers who are perfectly innocent and unconnected with the conspiracy. They were not permitted, undoubtedly, to hear any treasonable part of their discourse, but however, that Windsor, Winterbottom, Heron, and the Colonel were there, at this alehouse, refreshing themselves with bread and cheese and porter, will be proved and confirmed by this most unsuspected testimony. The Colonel was not satisfied with Windsor's having brought only one person, he wanted several, and he proposed that they should have another meeting, when Windsor should bring to him six or seven good clever fellow-soldiers, with whom they might arrange the plan for taking the Tower. In the course of the conversation here with Windsor, you will find the Colonel expressing likewise the extent to which he meant to carry his treasonable purpose, the necessity he thought there was for taking away the life of the King; that by taking the King out of the way, he seemed to think that the people would have their liberty; wishing, however, to have another meeting with Windsor, when there might be more soldiers together, it was agreed they should meet the next night at the Oakley Arms.

Gentlemen, I think it material now just to state to you, that though no steps were taken to arrest these Prisoners till Tuesday, the 16th of November, the period to which my narration has now led me, yet Government were not unapprized of their transactions; they were well watched; they were attended to as a

subject of such interest and importance required; but as long as their plans and schemes were at a distance, or were of so wild and extravagant a nature as to be capable of being prevented without any manifestation of the interference of Government, it was thought better not at that time to interrupt them. It was a difficult and embarrassing question to determine at what period such a conspiracy should be interrupted. If it had been interrupted at an earlier period, one or other of these unpleasing circumstances would have occurred, either the parties would have been brought to trial upon evidence to be obtained from those sources from whence so much useful information was then, and had for a long time before been derived to Government, and then the future usefulness of those sources of information would have been entirely destroyed, or it would have been impossible to have proceeded to the trial of them at all; and this other most unpleasant circumstance must have unavoidably occurred, that Government having arrested these persons, and not bringing them to trial, must have had recourse to Parliament for an indemnity, a measure, never, without the most pressing necessity, to be adopted. But when this scheme was so near its accomplishment, when the day of its execution was at hand; when a direct attempt on the person of the king was to be made, there was no longer room to trust to ordinary precautions, it was then become necessary at all risks, and all hazards, to crush this conspiracy, which had arrived at its maturity, and at least to go so far as to prevent the possibility of those individuals, who meditated an attack upon the person of the Sovereign the next week, from being at large to effect it. For this purpose, measures were taken to arrest them, and it will no doubt give you, and all other honest, good subjects, satisfaction to know, that the discovery obtained by the arrest itself, and the information subsequently procured, has produced such a body of proof against the conspirators as has enabled me to bring these Prisoners to their trials, without disclosing those sources of useful intel-

ligence, which will remain unsuspected and unimpaired, for the future security of the state.

Measures were, I say, therefore, taken to apprehend the persons of the Prisoners on that night. When the officers came for that purpose, there were assembled to the number of about thirty persons, in an upper room, at the Oakley Arms, they were of the lowest order of society —day-labourers, journeymen, and common soldiers. You will find them all, or nearly all, of that character and description: there was, however, one illustrious exception in the person of the Prisoner at the Bar. You will have it in evidence, that these papers, to which I before alluded, were found on the persons of some of them. Of the thirty persons who were arrested, several have been discharged: whether all of them were, or were not implicated, and to what degree they were implicated in the Treason that we charge against those whom we have in custody, is a question upon which I can give you no satisfactory information. Enquiries certainly were instituted for the purpose of distinguishing the cases of the persons there present, and the result of those enquiries was that it did not seem expedient to detain more persons in custody than those who are brought before you under this indictment.

Gentlemen, I cannot, at this time, pass by this meeting, and the occurrences which will be proved to have taken place upon the seizure of the persons found there, without pressing it upon your notice as one of the most important features of the whole case; as one that will furnish you with such satisfactory explanation, which will furnish you with such ample confirmation, by anticipation of the credit of the witnesses who will afterwards be called, that you cannot too strongly bear the circumstances of it in your minds. I shall, therefore, after having carried you forward with a very few more observations to the end of my narration, have occasion before I sit down, to revert for a few minutes to the effect which that meeting, and the circumstances attending it, will have upon the case.

Gentlemen, after these persons were arrested, Windsor, who was appointed to meet Colonel Despard there,

came to the house; he was not one of those who were arrested, he came to the house, and hearing what had passed, he immediately offered himself to the Gentleman who attended upon the execution of this warrant as a person ready to come forward and give important information upon this subject: he was not taken into custody, he was desired to attend the magistrates the next morning; he did attend, and he gave information, upon which the persons were committed.

Gentlemen, this is the nature of the circumstances, which we shall have to give in evidence against the Prisoner at the Bar; and, I apprehend, that the Overt-acts, which upon this evidence will be proved against the Prisoners individually, will be first in order, though certainly not first in importance. The Overt-act of attempting to administer one of those oaths to William Francis, a witness, whom I shall call; the other Overt-acts will be those of the other class, namely, meeting for the purpose of consulting as to the mode of way-laying and arresting the person of his Majesty, at those different meetings as detailed in the four last counts of the indictment; and these will, by strict and pointed evidence, be brought home to Colonel Despard himself: but if I satisfy you that the Colonel was a conspirator with John Francis, was a conspirator with Wood, was a conspirator with Broughton, then the Overt-acts of Broughton, of Wood, and of the others, whom I shall prove to have been co-conspirators with him, are the Overt-acts of this Prisoner himself, for which he will be responsible as well as they.

If, Gentlemen, you see no reason to disbelieve the story, as it will be related to you, there can be no difficulty as to the effect of it, when the facts are, by several witnesses, brought home to the Prisoner at the Bar. I am not aware of the possibility of the case being answered: that it will be observed upon, and that it will furnish matter for acute observation, I have no doubt; and where is the subject to which ingenuity can address itself, upon which important observations

cannot be made? But it occurs to me, that there are perhaps two or three observations which will be more particularly pressed upon your attention, and upon which it may not be improper to endeavour to anticipate some remarks. You will hear perhaps of the improbability of this story, from the desperate nature of it, and the little likelihood of its succeeding. You may perhaps likewise hear of some improbabilities attending the detail of the story itself; but I should think that the main stress of the observations will be applied to the credibility of the witnesses for the Crown. Witnesses, unquestionably, whom we must offer to you as accomplices, embarked in different degrees in the same conspiracy.

And first, Gentlemen, with respect to the improbability of this story, from its desperate nature, from the little hopes any rational man could entertain of its success, and its fatal consequences if discovered; I cannot, certainly, object to this, as a fair ground of observation, and as a proper test by which to examine the probability of any story; but I am persuaded you will go along with me in thinking, when you come to enter into this examination, that it must be entered upon with great caution, and with great allowance for the different measures of probability, which your cool and disengaged understandings will present to you, from those which would present themselves to persons eagerly embarked in the design, anxious in the pursuit, and who, from having long contemplated, as an important and valuable object, that which it was at last to lead to, overlooked the intervening obstacles that lay in their way.

Gentlemen, there are enthusiasts of various descriptions; there are enthusiasts for good, as well as for bad purposes; there are political enthusiasts and religious enthusiasts; but it is in the nature of enthusiasm not only to magnify the value of its object, but also to undervalue the difficulties which are opposed to it. In endeavouring, therefore, to examine this case, with a view to considering how unlikely it is for those persons to have embarked in it, you must endeavour to con-

sider, not how improbable its success appears to you, not how strange that a person should engage in so rash, so dangerous, and so wicked a design, but how probable its success was likely to appear to them, and how important and great the value of this object was in the estimation of their heated imaginations; and what great sacrifices they would be disposed to make, what great risks they would be prepared to run upon any, the faintest prospect of succeeding. If it be possible, you should put yourselves into their situation; you should, in imagination, suppose yourselves political enthusiasts of the same kind, misled by all the nonsense, and all the villainy which the French Revolution has set afloat in men's minds. You should consider yourselves as having long looked upon Treason as no crime; that rebellions and revolutions were the fields for the best exertions of virtue and patriotism; that your habits and conversations had been almost solely with persons who had been enthusiasts likewise in the same pursuits; that you had been habitually feeding each others hopes, inflaming each others passions, stimulating each others eagernesses; that you had been systematically endeavouring, by all possible means of exaggerated and false statement of your numbers and strength, to seduce others to co-operate with you in your designs; and then you will have to consider, whether under the influence of all these feelings and passions, so inflamed and so exasperated, the same estimate of the probability of success would be formed, as by the cool reflections of your minds, in their ordinary frames, uninfluenced by any such delusions. I am certain, a very little reflection will be sufficient to shew you how inaccurate a standard your view of these probabilities will afford to measure the extent to which their minds may have misled them, in calculating the likelihood of success. Add to this, the possibility, at least, of a plan of this description presenting itself to persons dissatisfied, angry, disgusted with the world; disappointed, vexed, and irritated, by the pressure possibly of those very inconveniences which their own indiscretions may have brought upon them, and again

ask yourselves, whether to such minds, so influenced, so misled, and so put off their bias, such an object would present itself in the same view, as it would present itself to you.

Gentlemen, there is one circumstance also of improbability in the detail of the story which will perhaps be pressed upon you, to which likewise I will shortly advert. I have told you already, that of the thirty who were taken up at the Oakley Arms, full half were discharged. It will probably be assumed that Government would not have discharged them if they had not been convinced of their innocence; and it will be urged to you very strongly how improbable it is that traitors, so nearly upon the eve of accomplishing their treasons, should meditate the plan, and arrange any thing respecting it, in a place which was open to the intrusion of innocent strangers. Now if it be assumed that they were discharged because Government did not think there was a case sufficient to put them upon their trial, it is true; but if it be assumed that they were discharged because they were thought to be innocent, there will be no foundation for that assumption. An anxious inquiry, as I stated, was made into the distinctions of the several cases. I believe you will find in the course of the evidence itself, that that inquiry was in part mistaken, and that several of those who were enlarged, were by evidence obtained afterwards, clearly implicated in the conspiracy. It is true, they have not been since retaken. It has been thought expedient to see what the effect and result of these trials might be, previous to any fresh attempt to re-take them; and on this mode of proceeding, at least if any charge can be grounded, it will not be the charge of too great severity, or too much eagerness, to prosecute.

Gentlemen, I will venture to say, that if every one of these men had been detained under the charge of Treason, till after the event of this trial had been known, no man living could have blamed the Government who so detained them; but the object of inquiry on the part of Government was not how

much severity might be justifiably exercised against the persons who were seized, but how little was absolutely necessary: having said this, I must leave the learned Gentlemen to make what observations they can upon this part of the case. They will find, however, from the nature of the evidence that we shall lay before you, that there were persons at that meeting unquestionably there for the first time; that the treasonable conversations which passed (treasonable conversations, most important for your consideration, which will be spoken to by two of our witnesses, Emblin and Connell) will appear by the same evidence to have passed in small circles and parties, not extensively and generally addressed to the whole room; and I think therefore that it will appear to have been no unwise distinction to be taken in such a case, that where there was not at the time collateral evidence to fix individuals with some knowledge of the guilt, their merely being at the meeting should not form sufficient ground for their detention.

Having made this observation respecting the probability of the story, I will say a few words upon the other topic, which I suppose will furnish my learned friends with observation, namely, the credibility of the witnesses for the Crown; standing, as some of them unquestionably do stand, in the light of accomplices to that Treason which their evidence is to prove. The observation I apprehend will not be attempted to go farther than to their credibility; it will not be contended on the part of my learned friends, that an accomplice is not a competent witness; and it shall not be contended by me that an accomplice does not require to be confirmed by collateral testimony, before a Jury should implicitly give him credit. When I say accomplices ought to be confirmed by collateral testimony, do not mistake me to state that every word which an accomplice utters must be spoken to by some other witness, because if that were so, there would be no need of an accomplice in any case but that of Treason; but the confirmation that is to be required for an accomplice, is to shew that the story,

as related by him, coincides with other circumstances, which are by unexceptionable testimony proved to have existed, and when such circumstances, falling in with the testimony of the accomplice, cannot so easily be accounted for upon any other supposition than that of the truth of his story. When I say that is the state of the evidence, I apprehend the accomplice is sufficiently confirmed, and that there can be no difficulty in giving complete credit to his testimony.

With respect to any other circumstances that may appear reflecting on the character of any of these accomplices, independent of this transaction, I know nothing of them: if there is any thing against any of them, it may be made appear by the gentlemen on the other side, whether such thing exists or not; I know not; but I cannot possibly disguise from you that I call a witness, who as an accomplice, has been embarked in so very desperate a crime, I cannot but feel great apprehension that the other parts of that man's life may not be altogether and entirely unimpeachable; it is not very likely, I think, that persons should reach to this extent of crime, without having gone through some criminal progress before they arrived at it; that this observation will apply to some of them, and will not apply to others, is most probable; but I rather think that my friends, in their discretion, will be a little cautious of shewing these witnesses to be of such very degraded, such low, and such infamous characters, because if they are of that description, I think my friends' difficulty will be a little increased to account for the circumstance of Colonel Despard making such sort of worthless and low persons, so frequently as he will be proved, by unquestionable evidence, to have made them his associates and companions, if not his friends.

With a view to see how accomplices may be confirmed, perhaps it will not be inconvenient to take you through the case of one of our witnesses by way of illustrating what I mean; I will take the case of Windsor, whose name I have mentioned, and who unquestionably will be considered by my friends as an

accomplice, how deeply will be best collected from his evidence; and with what ultimate determination he was embarked in the design. I told you he was not taken up at the Oakley Arms; that he came there when the alarm was raised, and when he might have escaped; that he did not choose to take the opportunity of escaping, but when, as yet at least, there had been no suspicion whatever excited against him, offered himself as a witness, and engaged to attend the examinations before the magistrates the next morning, and came accordingly and disclosed the whole extent of the Treason. Now this is not a circumstance wholly to be passed by, because it places him not in the situation of an accomplice, who having been already fixed by evidence with the crime himself, endeavours to relieve himself from the pressure of thar evidence by throwing it upon someboby else; he stands certainly in far different circumstances: what his motive was may be for you to collect, and it is not for me with any certainty to state; it might be that he was struck that moment, for the first time, with compunction; it might be that he thought the opportunity had occurred which he will tell you he had been long looking for, when the discovery should be made for the purpose of bringing to the knowledge of Government the existence of this conspiracy; it might be that he anticipated, that if he did not come forward and give evidence against others, others would come forward and give evidence against him; either one of these three motives, or all these three motives together in combination, may be those on which he acted at the time.

Gentlemen, the next thing to be observed with respect to his testimony will be as I stated, that he was sworn in the summer of last year; that recently after he was sworn in, he came to Mr. Bownas, and delivered to him one of these cards, and, in consequence of Mr. Bownas's advice, continued to belong to the society, in order to be instrumental in discovering and defeating their Treasons. Mr. Bownas will be called, and will confirm that part of the story. Then as to

the meeting at the Flying Horse, where Colonel Despard, Broughton, and others, held the very treasonable conversation which I have stated, you will find him confirmed by another accomplice, of the name of Emblin, who was there at the same time, and likewise confirmed in the most material circumstances respecting that meeting by the mistress of that public house, who will tell you, that there was this meeting at this time, will state what she knows concerning it, and will confirm the witness in the remarkable and desperate expression which he ascribes to Colonel Despard; following his story, we find him at Whitechapel, in company and close conversation with the Colonel; and the fact of his being so will be confirmed by two soldiers, perfectly innocent of this crime. Pursuing his story forward, he will tell you he was appointed by the Colonel to meet him, on the evening of the 16th, at the Oakley Arms. The events of that evening, as spoken to by the officers, will confirm that part of his story, and proving the Colonel there according to such appointment; indeed the meeting itself appears to me to be the strongest confirmation of all. As against the prisoner at the bar, if the evidence of these witnesses is not to be believed, I am persuaded you will wait with great anxiety, and great impatience, to hear from his Counsel how it happened that a man of Colonel Despard's education, of his manners, of his character, of his situation and rank in the army, should be at a meeting so constituted, and assembled for such purposes.

Gentlemen, I have told you that the company in general consisted of the lowest orders of society, common soldiers, common labourers, and journeymen. The character of the meeting itself, and the guilty purposes of some of the persons at least present at that meeting, will be made out by unquestionable proof, for when you are canvassing the credit due to an accomplice, this I think must be admitted, that there is no with-holding credit from him, so far at least as he speaks to his own guilt; for if there is no crime, he is no accomplice; if there is no conspiracy existing,

there is no occasion for any discovery on his part, to protect himself from danger; he could have no danger to apprehend, if he were conscious of no crime; therefore the fact of the existence of the crime will be pretty satisfactorily proved by the evidence of the accomplices themselves; but that will not be all. I state distinctly that the evidence of these papers, found in the possession of some of the prisoners, and at the meeting, necessarily gives a character of guilt to it; for what innocent purpose, or by what strange accident, could these papers and engagements have got into their possession? It is not immaterial to observe, that at the time when these papers were found upon their persons, and at the present moment, the administering an oath of this description, if it contained nothing but its purpose of secrecy, would, if acted upon, be a felony. Looking at the engagements and oaths themselves, which, as I have examined so fully before, I will not re-examine now; but observing generally upon them, I will say that those who acted upon them, who either took them themselves, or proposed them to be taken by others, will not easily relieve themselves from the crime of a treasonable intention of violence against the State; and if the nature of these papers is such as that they could not be acted upon without Treason, let me ask how consistently with innocent purpose they were possessed? if they were so, it is incumbent upon them to prove it; but without any proof, I am sure the fair presumption from the possession of these papers, which could not *be used* but for purposes of guilt, must be that they were *possessed* for such purposes; and that they were possessed for precisely those guilty purposes for which they were peculiarly calculated to be employed.

Such is the nature of these papers, and such the inference fairly to be drawn from the possession of them; "But on Colonel Despard none of these papers were found." True; no such paper was found upon Colonel Despard (attempts indeed will be shewn to have been made by Colonel Despard to swear in a person upon a similar paper) but no such paper was

found upon him; does it therefore follow that he is relieved and rescued from the inference to be drawn from the possession of this paper, as against those who had it? I apprehend not. Consider the condition of Colonel Despard, his rank in life, his situation in the army, his manners, and his carriage. There is something that sufficiently marks him, as bred and educated for better things, and more liberal society. Was it accident that led him, unaccompanied by any one person, approaching, though at ever so great a distance, to his own condition in life? Was it accident that led him into the upper room of an ale-house, to a meeting of the lowest description of labourers. I shall shew by evidence, indeed, that it was not by accident, that it was by design, by appointment, for the express purpose of meditating and arranging the very Treason charged by this indictment. But that evidence will require confirmation, and I am now examining how these circumstances confirm it; and how that circumstance, particularly of a person of his description, manner, education, and station in life, being found in the midst of these low-lived persons, detected as they were with these papers of treasonable import upon them. How is this to be accounted for? How, I mean, is this to be accounted for innocently? How are my friends who are of counsel for Colonel Despard to account for it? I can account for it very easily; but how my friends, whose object will be to remove the imputed guilt, and not to fasten it, will deal with this circumstance, I am at a loss to anticipate. I can explain it; my hypothesis will explain it most satisfactorily; my hypothesis is, that meditating and planning a most desperate act of Treason to be executed in the very next week, by the lowest and basest of society; Colonel Despard was at that time assembled with some of those very persons by whose instrumentality he was to effect it. My hypothesis is, that this meeting was assembled for the purpose of arranging or communicating this plan; that Colonel Despard was the author of it, was the leader to whom the rest looked up for advice, to whom the rest looked for its execution;

with my explanation all is easy. If there were this plot, if this plot were to be carried into execution the next week by persons of this description, and if Colonel Despard had devised it, was to head it, and to conduct it, where would you expect to meet him, but in a society of this very description of persons, by whose means his plot was to be accomplished.

I am persuaded that if similar circumstances were to occur in the trial of any other offence, no difficulty would be felt. Suppose a burglary committed, and some plate stolen, and suspicion to attach on a particular place, as the resort of the persons who had committed it, and that two persons, with a respectable silversmith in their company, were found in that place, a low alehouse, for instance, at St. Giles's; that these two persons had some of the plate upon them which had been stolen: if another person came in at the time when these men were arrested, and stated—I will give you important evidence; I confess that I was with these other men, that we were prevailed upon by this silversmith to embark in this burglary, and we were to meet this evening and divide the spoil; he himself appointed the meeting, when I was with him yesterday morning, at a public house in Whitechapel. This would be the case of an accomplice, that would require confirmation, and confirmation it would have abundantly by finding these persons together, with the stolen property upon some of them; they being proved likewise to have been before at the public house in Whitechapel, where this accomplice stated the appointment for the meeting to have been made. Would any Jury hesitate, upon all these circumstances, to believe the accomplice. Here the confirmation is of the same nature. I do not say that the mere circumstance of finding the prisoner at this place, in such low society, should of itself convict him of High Treason; but I am examining to see whether the fact of his being there does not confirm the testimony of the accomplices. I am not putting it to you that you should convict him of Treason because he was found in bad society; but I promise you that witnesses who

were surrounding him, when the conversation passed, shall, if you believe them, completely condemn him out of his own mouth. Then I put it to you whether there can be a greater or stronger confirmation of the testimony of an accomplice than by proving such circumstances as these; circumstances which cannot possibly be accounted for, except upon the supposition of the criminal purpose existing in the mind of the person on whom the accomplice charged it? Whether there can be a stronger confirmation of an accomplice than shewing other facts, with which his story perfectly coincides, and which is perfectly irreconcilable with the idea of innocence, and unaccountable upon any other grounds?

It seems to me, that in another case, the case of felony, you could have no doubt; and, I am persuaded, that you have no other measure of getting at facts and proof in a charge of Treason than of felony. If the evidence were such as would fasten upon this Prisoner a crime of a smaller denomination, it is such as to entitle me to expect, on the part of the crown and the public, that your verdict shall be pronounced against him in this case; and I trust you will have no extraordinary feeling that should lead you to think that you are to endeavour to extricate the Prisoner, by any strain of ingenuity, or of conscience, in this case, which would not be properly applicable to another. Undoubtedly the nature of the charge is such as requires, as I stated, your most anxious attention; it is one of the blackest, and the most mischievous which can come before you; but when it is brought home to the Prisoner the effect of these considerations is at an end. That he will even then, and to the last, be entitled to the fullest possible measure of justice at your hands, is that which unquestionably is true. His title to justice he can never forfeit; it cannot be forfeited in a court constituted as this is, administering English Law, by an English Jury, under the direction of English Judges; but that there shall be any feeling of humanity which should be restlessly anxious to extend itself in his favour, beyond those bounds within which both public and private

duty confine it, is that which the Prisoner has no title to expect, is that against which the public have a right to protest and to reclaim. I fear I have troubled you too long; I shall now proceed to call the witnesses, and if I do lay before you the evidence as I have opened it, confirmed as I have stated that it will be confirmed, I apprehend your duty to convict the Prisoner, however painful the discharge of that duty may be to your feelings, will be indispensable.

EVIDENCE FOR THE CROWN.

Mr. John Stafford sworn.

Examined by Mr. Solicitor General.

Q. What is your situation in the Police Office, in Southwark?

A. Chief Clerk of the Police Office, at Union Hall.

Q. Were you, in that character, any time in November last, directed to go to the Oakley Arms?

A. I was.

Q. What day of the week was it?

A. On Tuesday, the 16th day of November.

Q. Where are the Oakley Arms?

A. Situate in Oakley-street, in the parish of St. Mary, Lambeth, in this County.

Q. Did you go to the Oakley Arms?

A. I did.

Q. About what time?

A. About nine in the evening.

Q. Who are they that you went with?

A. I went with John Massey, and Richard Bethel Lloyd, two of the officers belonging to the same police office, to whom a search warrant was granted by the magistrates; I went with them, and met a large body

of Bow-street officers, that Sir Richard Ford had directed to attend with me: it was in consequence of his directions I received in the morning, that I went. Charles Bacon and John Rivett were two of the Bow-street officers that attended me.

Q. You met them before you got to the Oakley Arms?

A. I met them before the wall at the Asylum, the place that was appointed; we went together to the Oakley Arms.

Q. Relate to the Court and Jury what passed at the Oakley Arms.

A. Mr. Lloyd, the officer, attended at the room below stairs, in the Oakley Arms, with a party of officers, and John Rivett, John May, and myself, ran up one pair of stairs into the club-room, as nearly together as possible; when we went into the room, there were a great number of people in the room, it turned out that there were thirty persons in the room altogether.

Q. Did you take any memorandum of the names of the persons at the time?

A. I did; I took a memorandum of their names, and the short account each of them gave me of himself. Thomas Phillips was the first; he told me at the moment that his name was Jackson, he afterwards said that was wrong, that his name was Phillips, William Lander, John Lambert, Abraham Bailey.

Q. Name all that were there who are in the indictment.

A. Thomas Phillips was there, William Lander, John Doyle, John Wood. I asked Wood where he lived, and what business he was, he told me he was a journeyman carpenter; I asked him whether he was a soldier, he said he had belonged to the 10th regiment of foot, but he was not a soldier then; Thomas Newman was there, James Sedgwick Wratten, Daniel Tyndall, and Edward Marcus Despard.

Q. Is that the gentleman?

A. Yes, that is the gentleman; Samuel Smith, Thomas Broughton, John Emblin, and John Connell,

who are Witnesses, were also there, and other persons who were afterwards discharged upon entering into recognizances.

Q. Was Charles Wichelow there?

A. Charles Wichelow was there.

Q. Macnamara was not there?

A. No.

Q. Nor Graham?

A. No.

Q. The persons you found in the room, were in the whole to the number of thirty?

A. Yes.

Q. What description of persons did they appear to be?

A. They appeared most of them to be working men; some were soldiers, and in regimentals. I think that John Francis, Wood, and Newman had not regimentals: indeed I do not recollect that any of them had regimentals on; I am rather inclined to think they had none of them regimentals on; one had a kind of undress red jacket on.

Q. Upon going into the room, what did you observe, and what passed?

A. Immediately as I got into the room, I made towards the top of the room, towards the fire-place: I looked about, and desired them not to be alarmed; that we were merely officers, come by virtue of a search-warrant, granted by the magistrates: some of them were getting up, and seemed a little alarmed; I desired them to keep their seats. We went into the room, a good many of us, pretty quick. I desired the officers to proceed to search them; upon Thomas Phillips I saw May find a paper, which he took from him.

Q. Should you know that paper again?

A. I should, because I made May write his name upon it.

Q. Look at this paper, marked No. 1.

A. This is the paper, here are my initials upon it. At the time we were taking that paper from Phillips, one of the patrole came up to me and said, here is a

man will not be searched. I turned about, and went to about the middle of the room, and saw the gentleman at the bar standing up; I did not know his person, Rivett was with me, Rivett directly said, that is Colonel Despard.

Q. Was there any other person besides Colonel Despard in this company that had the appearance of a gentleman?

A. None; some were decent looking men, but certainly had not the appearance of gentlemen. *Colonel Despard desired to know by what authority we came.*

Q. You said somebody refused to be searched, who was that?

A. I was taken to Colonel Despard as the person who had refused to be searched. I told him we came under the authority of a search warrant, signed by two magistrates, Mr. Carpenter Smith and Mr. Broadley; he desired to see the warrant, Mr. May had it in his possession, I desired him to produce it, and either Mr. May or myself held it out to Colonel Despard, and shewed him the signatures of the magistrates; he desired to read it, or asked me to read it to him, I do not know which; I told him that was unnecessary, and I declined to do it. We at that time went on to search Colonel Despard, he seemed rather angry, rather indignant that we should do so. I told him it was necessary, that we were only doing our duty. We searched him very minutely, and found nothing upon him. He had in his hand at that time a green silk umbrella with a hooked yellow stick—an umbrella that you walk with.

Q. Were there any of the other men at this meeting besides Colonel Despard had an umbrella?

A. I did not see one. I saw another paper in the hand of Samuel Taunton, but I did not see exactly where it came from.

Q. Was any other paper found?

A. I do not remember that I saw any more found.

Q. Did you happen to see Broughton searched?

A. I was not by at that moment.

Q. What was done in consequence of your going

up into this room, finding these persons together, and finding these papers?

A. They were the whole of them taken into custody. I sent May with Colonel Despard, one of the first, to the office, and I continued there till they were all sent away. I sent for coaches, and sent officers along with them to places of security for the night.

Q. After they were all gone did you continue at the Oakley Arms, or go away?

A. I went away after they were all gone.

Q. But before you went away, did you see any other person come to that alehouse?

A. Yes; I did not know the person at that time, but it turns out to be Thomas Windsor.

Q. Where were you when he came to the Oakley Arms?

A. I was come down stairs, and was standing at the bottom of the stairs, seeing the prisoners put into the coaches, and taken away. I saw a man come in, dressed like a bricklayer or plasterer, there appeared some lime about him; he went into the tap-room, opposite the room where I had placed Lloyd and the other parties, he sat down, and called for a pint of beer and a pipe of tobacco.

Q. Had you any conversation with him?

A. Yes; after a little time he spoke to me, and I had a pretty long conversation with him.

Q. Did you, in consequence of that conversation, take any step, either that night or the next day.

A. I desired him to attend the next day at Union Hall, in consequence of the conversation I had with him. I took down his name and place of residence, and who he was at the moment.

Q. Perhaps you can give us his place of residence?

A. I remember perfectly well it was in Weymouth-street, Newington; he said he was a bricklayer by business, and a soldier in the guards; I desired him to attend next morning at Union Hall, before the magistrates.

Q. Did he attend?

A. He did.

Q. You did not take Windsor into custody, but took his word that he would meet you the next morning at Union Hall?

A. I did.

Q. Was any thing done when he came to Union Hall?

A. He was examined, and upon his examination he produced another paper.

Q. Was it similar to that you found in the room?

A. It was, but it seemed rather better executed; he wrote his name, Thomas Windsor, upon it at Union Hall.

Q. Look at this paper, marked No. 2.

A. This is the paper, I marked it myself; upon seeing the Prisoner, he knew Colonel Despard.

Mr. Serjeant Best. I take for granted that what passed was reduced into writing?

A. The examination was taken in writing.

Mr. Solicitor General. Was Colonel Despard present?

A. He was, and he said he knew James Sedgwick Wratten, John Francis, John Wood; it was then Wood admitted that he was a soldier.

Mr. Gurney. That was taken down in writing?

A. No, it was not.

Mr. Solicitor General. Did he say what regiment he belonged to?

A. I do not exactly recollect that; John Francis, I remember, admitted he was a soldier in Colonel Lambert's regiment in the guards; he had before said he was a shoemaker, but had not said he was a soldier; he also knew Emblin and Samuel Smith. The prisoners were severally committed.

Q. Do you happen to remember the day on which Parliament met?

A. I think it was that very day, the 16th of November.

Q. Do you remember the day on which his Majesty went to meet the Parliament?

A. I do; it was the week following, I think it was the next Tuesday, the 23rd.

The Paper marked No. 1. *read.*

"CONSTITUTION.

"The independence of Great Britain and Ireland. An equalization of Civil, Political, and Religious Rights; an ample Provision for the families of the Heroes who shall fall in the contest.

"A liberal Reward for distinguished Merit.

"These are the objects for which we contend; and to obtain these objects we swear to be united."

"In the awful Presence of Almighty God, I, A. B. do voluntarily declare that I will endeavour to the utmost of my power to obtain the objects of this Union; namely, to recover those rights which the Supreme Being in his infinite bounty has given to all men; that neither hopes nor fears, rewards nor punishments shall ever induce me to give any Information, directly or indirectly, concerning the business, or of any member of this or any similar Society,

So help me God."

Charles Bacon sworn.

Examined by Mr. Solicitor General.

Q. You are, I believe, one of the patroles belonging to the Public Office, in Bow-street?

A. I am.

Q. Were you present with Mr. Stafford, at the Oakley Arms, on the 16th Day of November?

A. I was.

Q. Did you go up into the room?

A. I did.

Q. What number of persons did you find there assembled?

A. There were as many as thirty, or more.

Q. Was the prisoner there?

A. Yes; I saw that gentleman there.

Q. What description of persons were they; did they appear to be gentlemen, or of a different description?

A. There were some dirty and some clean; they were of all descriptions.

Q. Was there any other person in the room of the dress and appearance of a gentleman, excepting Colonel Despard?

A. No; I did not see any.

Q. Did you search any person in the room?

A. Yes, I searched Thomas Broughton, and found three printed papers upon him.

Q. Was any mark made upon those papers, to identify them?

A. Yes; I put my name upon the back of those three papers.

Q. Look at these three papers?

A. These are the three papers, marked No. 3, No. 4, and No. 5.

Q. Colonel Despard you say was one of the persons?

A. He was.

Q. Did you hear Colonel Despard say any thing upon Mr. Stafford ordering the coaches to remove the persons.

A. Colonel Despard was walking up and down the room; he addressed himself to the company in the room and said, "*he wanted to know what he was detained for.*" Immediately a number of persons that were in the room jumped up, Colonel Despard said, "*one and all follow me.*" They went towards the door, one of the officers went out of the room, and desired some of the patrole to come up; they came up, and desired them to go back into the room again.

Q. Did they go out of the room then?

A. No; they only went towards the door.

Q. When Colonel Despard said "One and all follow me," to whom did he address himself?

A. The persons in the room; there were a number of officers in the room; one of the officers went out of the room, and then a number of others came up.

Q. Did Colonel Despard say any thing else?

A. I did not hear him say any thing else in the room.

John May sworn.

Examined by Mr. Serjeant Shepherd.

Q. I believe you are one of the police constables for this county?

A. Yes.

Q. Did you go to the Oakley-Arms with Mr. Stafford and some other officers, in November last.

A. Yes; on the 16th of November.

Q. At what time did you go?

A. About nine o'clock at night. I went up stairs with Mr. Stafford; we went into the one pair of stairs room, there we found thirty persons.

Q. Did you search any of them?

A. I searched one; Phillips, alias Jackson.

Q. Did you find any paper on his person?

A. As he sat by the fire, he had his hand in his left hand pocket, and in his hand I found a paper, the same as that which has been read.

Q. Did you put your name upon that paper?

A. I did. This is it, that is marked No. 1.

Q. Do you know Colonel Despard?

A. Yes; I do.

Q. Was he one of the persons who was in the room when you went there?

A. He was.

Q. Do you know any other of the persons who were there?

A. I did not know them before; I do now.

Q. Did you know Phillips before?

A. I did not.

Q. Name some of the persons who were there?

A. Phillips was one. I have the names of all that were in the room, written on the back of the warrant, under which I apprehended them.

Q. Repeat their names?

A. John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Samuel Smith, and Colonel Despard.

Samuel Taunton sworn.

Examined by Mr. Serjeant Shepherd.

Q. You, I believe, are a police constable?

A. I am.

Q. Did you go to the Oakley-Arms in November last, with Mr. Stafford and the other officers?

A. I did; on the 16th in the evening.

Q. Did you go up stairs?

A. I did.

Q. How many persons did you find in the room?

A. I believe there were twenty-eight or twenty-nine.

Q. Did you search any of them?

A. I did, I searched Magree or Magrah.

Q. Whilst you were searching Magree, did you observe any of the other officers pick up any paper from the floor.

A. I saw Joseph Hannah pick up a paper.

Q. Where was the paper lying when Hannah picked it up?

A. On the floor, under the table, on the left, near the door. It seemed exactly under where he was sitting, before I searched him.

Q. Did Hannah give you that paper?

A. He did; immediately.

Q. Did you put your name upon it?

A. I did.

Q. Look at that paper, marked No. 6.

A. This is the same.

Joseph Hannah sworn.

Examined by Mr. Plumer.

Q. You are one of the constables attending the public office at Bow-street?

A. I am.

Q. Did you attend the other officers on the 16th of November, to the Oakley-Arms?

A. I did.

Q. Do you remember giving any paper there to another officer?

A. I did.

Q. Where did you find that paper?

A. Under a stool.

Q. Who was standing near that place?

A. There was a man standing there, who, I understand, has since been discharged.

Q. Do you know his name?

A. I do not; I took the paper up, looked at it, and gave it to Taunton.

John Rivett sworn.

Examined by Mr. Plumer.

Q. You are one of the constables belonging to the Public Office in Bow-street.

A. I am.

Q. Were you at the Oakley-Arms on the 16th of November?

A. I was.

Q. Did you go up stairs into the room where the prisoners were apprehended?

A. I did.

Q. Did you see the prisoner, Colonel Despard, there?

A. I did not see him at first going into the room; I saw him in two or three minutes after.

Q. Did you know him before?

A. I did.

Thomas Windsor sworn.

Examined by Mr. Garrow.

Q. You are a private soldier in the grenadier company of the third battalion of foot guards?

A. I am.

Q. Do you know the prisoner at the bar, Colonel Despard?

A. Yes.

Q. Do you know a person indicted of the name of John Francis?

A. Yes.

Q. Were you with Lord Egremont in the month of March last, at Chatham?

A. Yes.

Q. Did you at any time, soon after the return of the regiment from Chatham, receive any printed papers from John Francis?

A. Yes.

Q. Did you deliver any of those cards or papers to any person, and to whom?

A. Yes; I delivered one to Mr. Bownas.

Q. Of the Transport-Office?

A. Of the Transport-Office, or the Agent-Office.

Q. Is he an Army Agent?

A. He is.

Q. Did you communicate to Mr. Bownas under what circumstances you had received those papers?

A. Yes.

Q. Did you leave one or two of those in his possession?

A. I left one.

Q. Did you receive from Mr. Bownas any advice, as to the conduct you should hold, respecting the person from whom you received those papers, and the subject matter of them?

A. Yes.

Q. What did Francis state to you to be his object in delivering that paper to you, and what did he invite you to assist him in doing?

A. To unite ourselves to overturn the present tyrannical system of government.

Q. What were you to do for this purpose?

A. To unite ourselves in different companies to get possession of arms.

Q. Did Francis, to your knowledge, apply to any other soldiers besides yourself, to assist in this plan?

A. Yes; to Thomas Blades.

Q. In consequence of this, was he afterwards at a meeting held at any public-house in St. Giles's?

A. Yes.

Q. Upon the delivery of the cards to you, did Francis make any proposal to you, to bind you to this association?

A. He offered me a printed card, which was an affidavit.

Q. What did you do with it?

A. He told me to read it, and to kiss it.

Q. Did he give you more than one at that time?

A. Not at that moment.

Q. Had he before given you any?

A. No.

Q. Was the first act, respecting the card, the giving you some of those cards, or swearing you in?

A. The first act was the swearing me in.

Q. Describe how you were sworn in?

A. He told me to read the oath; I read it.

Q. Did you read it loud?

A. No; secretly to myself, and in a low tone of voice, and then he desired me to kiss it.

Q. Do you now know whether that is the usual mode adopted of swearing in soldiers to this conspiracy?

A. It is.

Q. What is the mode when the soldier is not himself capable of reading?

A. Then the person who brings the man forward, reads it for him if he can, or some other person belonging to the society reads it.

Q. When it is read to him, what does the person do?

A. Then he kisses it, for that is the form of the oath.

Q. How soon after you had been sworn in, did Francis give you the other cards, one of which you delivered to Mr. Bownas?

A. It was about a week afterwards.

Q. For what purpose did he deliver them to you, and with what directions for your conduct?

A. That I might distribute them to whom I thought proper, as a person capable to take the command of a company.

Q. How many did he deliver to you the week after you had been sworn in?

A. Two of them.

Q. Did he deliver you the one upon which you had been sworn in?

A. I believe he did.

Q. Soon after this, was there any meeting held at a public-house in St. Giles's?

A. Yes; at the Brown Bear.

Q. Is there any other house in St. Giles's where this meeting used to be held?

A. Yes; the Running Horse.

Q. How many persons used to meet at a time at these public houses?

A. Generally from sixteen to twenty, or to twenty-five.

Q. What description of persons were they generally who met there?

A. They principally appeared to me to be Irishmen of the lower class; labouring men.

Q. Were these meetings had frequently?

A. Yes; every week.

Q. Was there at any time any determination or resolution come to, about the mode of holding these meetings?

A. There was a resolution come to by a man of the name of Mack, as we called him, but his proper name is Macnamara. He proposed at a meeting, at the Running Horse, that we should change the public-houses

of meeting as often as possible, in order to avoid detection.

Q. Was that advice adopted, and were other houses resorted to?

A. Yes.

Q. Amongst others, was there a house in Hatton Garden?

A. Yes; the Bleeding Heart, in Charles-street, Hatton Garden.

Q. Did you attend any meeting at the Bleeding Heart?

A. Yes.

Q. Was John Francis at this meeting?

A. He was.

Q. Who accompanied you to any of those meetings?

A. Thomas Broughton accompanied me to one of the meetings at the Bleeding Heart.

Q. What number of persons might attend at that meeting?

A. About twenty-five.

Q. What was the object of these meetings, and the business to be transacted at them?

A. To unite ourselves, to raise subscriptions to pay delegates, to go into the country, and to pay the expence of the printing of these affidavits, to overturn the system of Government, and to destroy the Royal Family.

Q. Were these purposes named in the meeting of the persons who assembled, as the objects of their union?

A. In general they were.

Q. In what manner were new members added to the association?

A. There were ten men in each company, and when they amounted to eleven, the eleventh took the command, if he raised the number himself.

Q. What was his denomination?

A. Captain; as captain of ten.

Q. Were they all sworn in?

A. They should be, according to the directions and orders.

Q. Is the society divided into any divisions, and what?

A. In different divisions, but they were not bound to a number.

Q. What were the divisions regulated by?

A. By place.

Q. What was the division with which you were associated?

A. A division in the Borough; there was a division in Mary-le-bone, a division in Spital Fields, and a division from Blackwall and upwards, towards the City.

Q. You have given us the constitution of the companies of ten and their captains; what was the next order?

A. The oldest captain of fifty, was to have the command of fifty.

Q. What was he called?

A. He was called colonel of that deputy division; that subdivision.

Q. Were you a private in the ranks in this association?

A. John Francis and Macnamara, told me they should appoint me as colonel of the Borough division.

Q. What character did they hold in the Union, which entitled them to appoint you a colonel?

A. They called themselves colonels, under the head colonel, or commander in chief.

Q. Do you know the Spread Eagle in Mill-lane?

A. I never was there.

Q. Do you know whether that is a place for the meeting of any of the subdivisions?

A. It is.

Q. Do you know a person of the name of James Sedgwick Wratten, who is indicted?

A. Yes.

Q Do you know of what that division in Mill-lane, is principally composed?

A. Principally of persons who have been discharged from the navy, or who have been in the great gun exercise.

Q. Do you know whether Wratten is himself an officer?

A. He called himself a colonel.

Q. Do you know the Hoop and Ram, in the Mint, in the Borough?

A. Yes; that is the house Wratten associates at; he holds his division there; it is the house where he assembles his people.

Q. Do you know a house called the Oakley Arms, at Lambeth?

A. Yes.

Q. Did you ever attend at the Oakley Arms, and upon whose summons?

A. Yes; upon Broughton's summons.

Q. What evening of the week was it?

A. On a Tuesday.

Q. When was the first time you met there?

A. It was about six or seven, or eight weeks before I gave in my evidence.

Q. Who did you meet there besides Broughton, who summoned you?

A. There was a man there of the name of Arthur Graham, and another man of the name of William Lander; there were to the amount of about half a dozen, but I did not know any of the others.

Q. What was done at the first meeting at the Oakley Arms?

A. There was nothing done there; Broughton went to a man of the name of Hutchinson, in Cecil-court. On Tuesday, the Lord Mayor's Day, we were at the Oakley Arms.

Q Were Broughton and any of the persons you have mentioned, there?

A. I went to that house, and the son of the man who keeps the house, went up stairs and called Broughton out to me. There were a vast many people, the room was almost full; I went just within the door to speak to Broughton, but did not stay there.

Q. What number do you think were there?

A. About thirty.

Q. Did you go there accidentally, or by appointment?

A. I had been up at a meeting at the Windmill, in Windmill-street, and upon my return, looked in at this place.

Q. Were you present at any time when a subscription was entered into by any person?

A. Broughton told me on the 9th they had gathered fifteen shillings and sixpence, and that it was to pay for delegates going into the country, and to pay for some more of those affidavits being printed.

Q. Did Broughton, at that, or at any time, produce any of these oaths to you?

A. I had one from him there; I gave him a shilling for it.

Q. You said you came from a meeting in Windmill-street?

A. Yes.

Q. What number of persons were there?

A. About sixteen.

Q. What had been transacted there?

A. The same as at the other meetings; principally encouraging people to get as many recruits as they could; asking if there were any members that would take a card, and bring men.

Q. Were cards produced for that purpose, in order to furnish those who were disposed to take them?

A. There were; John Macnamara was at that meeting.

Q. What was proposed to be done with the papers, when they should be printed?

A. To distribute them into the country by the delegates, who were appointed for that purpose.

Q. Did you offer to contribute towards a subscription at any time?

A. That was part of the subscription I paid, when I paid a shilling for the affidavit.

Q. Was any observation made upon that by any person?

A. Broughton said each member who took one of these affidavits, must pay a shilling for it, and the

money, over and above what was paid for printing any more, was to be paid to the delegates.

Q. Do you remember a meeting on the Tuesday following, at the Hoop and Ram, in the Mint?

A. No; it was a fortnight or more, before the meeting on the Lord Mayor's Day.

Q. Who were the persons that were there at that time?

A. Broughton was present.

Q. Was the same object pursued at all these meetings?

A. The same; there was no difference, one from another.

Q. Who were present at this time?

A. Broughton was present, Wratten was in the chair, John Wood, a soldier of the first regiment, was there, Magrah was there, Newman, of the first regiment, was present, and Thomas Blades, and several other persons.

Q. Do you remember a meeting at the Bleeding Heart, in Charles-street, Hatton Garden?

A. Yes.

Q. When was that, as near as you can fix it?

A. It might be about six weeks before the meeting, at the Hoop and Ram, in the Borough.

Q. On what day of the week was it?

A. On Sunday evening.

Q. Do you know a house called the Bell, in Tower-street?

A. Yes.

Q. Did you attend any meeting at that house?

A. I was ordered to attend, but it being in the time of evening service, the landlord would not let them in; they went to the Canteen, a suttling house in the Tower; they call it the Stone Kitchen.

Q. What time was that?

A. On a Sunday; about a fortnight after the meeting at the Bleeding Heart.

Q. How long was that before Lord Mayor's Day?

A. About three weeks or a month before.

Q. How many persons were at that meeting in the Stone Kitchen?

A. When they first assembled, there might be about twenty or twenty-five; when they found they could not get into the house, they rather dispersed; and I think about thirteen or fourteen of them went to the Tower.

Q. When you were assembled there, what business was discussed?

A. They were planning that some part of them should go to Woolwich, to the Warren, to try if they could not get some people belonging to the Warren, to unite with them.

Q. You have already stated a meeting at the Oakley Arms, on Lord Mayor's Day. I pass to the next meeting. Do you remember a meeting on the 12th of November, the Friday after Lord Mayor's Day?

A. I do.

Q. Where were you when applied to, to attend that meeting?

A. I was at work, at No. 16, in West Street, West Square, setting up a copper; Broughton called upon me there, and said, "Windsor, come with me to the Flying Horse, in Newington, I will introduce you into good company."

Q. Had you been at the Flying Horse before?

A. Not that evening; it was a house I used; I had my regular beer from the Flying Horse. I told him I could not neglect my business, that I had a wife and family to maintain. He said, "*Damn it, you must neglect your business; I neglect mine.*"

Q. Did you, in consequence of that, go with Broughton to the Flying Horse?

A. I went with him to the Flying Horse.

Q. What part of the house did you go into at first?

A. I went into the tap-room; I made a stand there; Broughton said, "Don't stop there, come along," then I followed him into the parlour.

Q. Did you find any person in the parlour?

A. I found a gentleman, who called himself Colonel Despard; that gentleman there is the person.

Q. Were you before acquainted with Colonel Despard?

A. I was not.

Q. Then you found a gentleman, who was a stranger to you, sitting in the parlour?

A. I did; when I went in, Broughton addressed himself to me, and said, "that is Colonel Despard."

Q. Had you had conversation with him before about Colonel Despard? Did you know whom he meant, when he said he should introduce you into good company?

A. I did not; I made my obeisance to the Colonel, and took my seat.

Q. Was any body else in the room?

A. Yes; a gentleman of the name of Emblin, Samuel Smith, and Arthur Graham.

Q. What was said?

A. Broughton told Graham, "that was Colonel Despard," and Graham and Colonel Despard fell into conversation.

Q. Did any thing further pass?

A. Nothing; Graham and Colonel Despard fell into conversation for some minutes; then Mr. Emblin entered into conversation with Colonel Despard.

Q. Did you hear what passed between him and Graham?

A. I did not; I was not privy to that conversation. I saw Graham offer a piece of money to Colonel Despard, which he refused; Graham then said, "You shall have something to drink;" and he ordered a shillings' worth of brandy and water.

Q. Did any thing pass, from whence you collected what that piece of money was offered for?

A. It accompanied the conversation; Broughton said, "that is Colonel Despard;" then he offered Colonel Despard a piece of money; he ordered a shilling's worth of brandy and water.

Q. What did you hear pass in that conversation?

A. I heard Mr. Emblin urgently recommend to Colonel Despard, "that there ought to be a regular

organization in London;" Colonel Despard said "*No; a regular organization in London is dangerous to us, it is under the eye of Government; but a regular organization in the country is necessary, and, I believe, general; and that the people were every where ripe and anxious for the moment of attack.*"

Q. Was this addressed still to Emblin?

A. Yes; and Colonel Despard said, "*and I believe this to be the moment; the people, particularly in Leeds, in Sheffield, in Birmingham, and in every capital town in England, are ripe;*" and he said, "*I have walked twenty miles to-day, and the people are every where ripe where I have been.*" He said, "*the attack is to be made on the day his Majesty goes to the house, and his Majesty must be put to death.*" He said, "*that the mail coaches were to be stopped, as a signal to the people in the country, that they had revolted in town.*" That was principally what Colonel Despard said at that moment.

Q. Did he address any thing to you?

A. Not at the moment I went in. Colonel Despard said, "*How do you do?*" and he said, after the conversation I have stated, "*Windsor, Wood has mentioned you to me.*"

Q. Had your name been mentioned in that meeting in his presence, before he said, Windsor, Wood has mentioned you to me?

A. Yes; Broughton frequently called over to me by the name of Windsor.

Q. What more did he say to you?

A. Colonel Despard said, "*I would be glad if you would meet me on Tower-hill on Monday morning, at half past eleven o'clock, and bring with you four or five intelligent men, to consult on the best mode of taking the Tower, and securing the arms.*"

Q. Did you promise to meet him?

A. I promised to meet him there.

Q. In the course of that meeting do you remember any other remarkable expression to have been used by Colonel Despard, with respect to any consideration he had given the subject?

A. Yes; he said, "*I have weighed the matter well, and my heart is callous.*"

Lord Ellenborough. What immediately preceded that?

A. I believe it was at the time when he said, the people are every where ripe; he said, "*the people are every where ripe, but I have weighed the matter well and my heart is callous.*"

Lord Ellenborough. Had he, before that, mentioned that an attack was to be made on his Majesty, and his Majesty was to be put to death, before he said, his heart was callous.

A. He had mentioned that,

Mr. Garrow. You promised to meet Colonel Despard on the Monday following, when he had asked you to bring four or five intelligent men with you?

A. Yes.

Q. Did you say you would bring four or five intelligent men with you?

A. I said I would.

Q. Do you happen to recollect who paid for the brandy and water?

A. Graham paid for it.

Q. Did you see the servant girl that night?

A. The servant girl came into the room several times that night.

Q. Did any body give her any thing?

A. Mr. Emblin gave her two or three pence, and he said, "I will kiss you when I come again," or, "I'll have a kiss when I come again."

Q. How long do you think you were in company with Colonel Despard, at the Flying Horse?

A. About two hours and a half.

Q. Do you remember any observation of Emblin's to Colonel Despard, with respect to the advice he had given, as to the organization?

A. No more than saying, he thought a regular organization would be necessary.

Q. Upon the Monday did you meet Colonel Despard any where?

A. Yes; at the Tyger at Tower-hill.

Q. Did you take any person with you?

A. Yes; a man of the name of Winterbottom, a soldier of the same company.

Q. You went there, agreeably to the appointment that had been made on the Friday before?

A. Yes.

Q. Did you find Colonel Despard there, or did he come after you got there?

A. I was there at the time appointed, which was half paſt eleven; Colonel Despard came about five minutes before twelve.

Q. Did he come alone?

A. Yes.

Q. What part of the house were you in?

A. When Colonel Despard came, Winterbottom and I were in the tap-room; Colonel Despard made a motion with his head, beckoning me out; I went out, and left Winterbottom behind.

Q. What did Colonel Despard say to you on your going out?

A. He said, "*Windsor, are these people belonging to us.*"

Q. What people were there there?

A. There were four or five more soldiers in the tap-room, when Colonel Despard said, "Are these people belonging to us?" I said Yes; says he, "*tell them to come along with me.*" I said, "Sir, there is only one I can depend upon, and that is Winterbottom." Then he said, "*You take one direction and I will take another, as you are well known and are in your regimentals, and meet me opposite Whitechapel Church.*"

Q. I understand that you, Winterbottom, and the other soldiers, had your regimentals on?

A. Yes, we had.

Q. Did you return to Winterbottom, and go with him according to the appointment made with you?

A. I did.

Q. When you arrived opposite Whitechapel Church with Winterbottom, did you find the Colonel there?

A. The Colonel walked gently before us; we overtook him when we got opposite the church.

Q. Not noticing him till you got there?

A. No; when we came to the Two Bells, the Colonel said, "Go into that public house (pointing to the Two Bells) and I will go and find a man who can give me some information respecting Lynch."

Q. Who was Lynch?

A. A soldier, who had been in the third battalion of the first regiment, but was then discharged.

Q. Did you go into the public house as he directed you?

A. Yes; he asked me, "if I had got any money;" I said I had as much as would buy a draught of porter; Winterbottom and I went into the public house.

Q. How long did you stay before Colonel Despard came to you?

A. We waited about half an hour; he brought with him a man of the name of Herron.

Q. What was Herron?

A. He had been a soldier formerly in the first regiment of guards, but was then discharged.

Q. He, of course, was not in regimentals?

A. No; he was in coloured clothes.

Q. What did the Colonel say when he came?

A. He said, "he could not find any thing of Lynch; he believed Herron had seen Lynch the week before, and he believed him to be still in the regiment." I was desired by the Colonel to enquire after that man at the Flying Horse, on the Friday evening, and the Colonel said, "*I might trust him with any secret I had.*"

Q. Did he describe him to you?

A. Yes; Lynch of the third battalion; he came and beckoned me out of the Two Bells, as he had done at the former public house; he made a signal with his head to me; this conversation, I have stated, took place, upon his beckoning me out; we walked up and down the street for the space of about twenty minutes; I believe they call it Brick lane; Winterbottom, Herron, Colonel Despard, and me.

Q. Then they went out, upon his making the signal, as well as you?

A. No; Herron did not go into the house; while we were walking there, the Colonel said, "*Windsor, are deceived in the number of arms that are in the*

Bank; there are no more than six hundred, and they have taken the hammers off, to render them useless, as they must have been apprised of our intention." We went to a public house in Whitechapel after that conversation, the sign of the Coach and Horses.

Q. Who went?

A. Colonel Despard, Winterbottom, Herron, and myself; we had two pots of porter and some bread and cheese; we had a twopenny loaf, and a quarter of a pound of Gloucester cheese.

Q. How did you get your bread and cheese?

A. The boy fetched it; the Colonel gave the boy the money to fetch it.

Q. It was not supplied by the public house, but fetched from some other house?

A. I believe it was the boy brought it in; the Colonel said to me, "*Windsor, do you know those two soldiers at the top of the table?*" They were at the top of the tap-room table, in the same box we were sitting in. I said I knew them by sight, but did not know what their names were. He said, "*I believe they belong to us;*" meaning, belonging to the society the same as myself.

Q. Did he say any thing to the soldiers?

A. No, he did not; Herron was in conversation with him, but I did not hear what Colonel Despard said; he said, "*Windsor, his Majesty must be put to death, and the people will be at liberty.*" He asked these soldiers to have something to eat and drink, but they declined it.

Q. Did he speak this about his Majesty, loud enough for those soldiers to hear it?

A. He did not; he spoke that to me privately. He said, "*He would make the attack himself on the day his Majesty went to the House, if he could get no assistance from this side of the water.*"

Q. You were at this time on the Middlesex side of the water?

A. Yes.

Q. By whom did he say he would make the attack?

A. By the forces he had from that side of the water.

Q. Contra-distinguishing it from the Borough division, from this side of the water?

A. Yes.

Q. At what time did you understand that his Majesty was to go to the House?

A. On the 23d of November.

Q. Do you know what day of that week his Majesty was to meet Parliament?

A. I understood it was to be on the Tuesday.

Q. Was there any thing more in that conversation that is material?

A. Nothing more. The Colonel asked me "*to meet him on the next night, with seven, eight, or nine, intelligent men, to consult on the best method of attacking the Tower, and taking the arms.*"

Q. Where were you to meet?

A. At the Oakley Arms, in Oakley street, Lambeth.

Q. Did you promise Colonel Despard, that you would meet him there?

A. I told him, if he came forwards himself, and shewed himself in the different meetings, the people would be satisfied that there was such a person as himself to lead them.

Q. Did this finish the conversation at that meeting?

A. It did.

Q. Who paid for the refreshment your company had had there?

A. Colonel Despard, and then we parted.

Q. At what time did you part with the Colonel?

A. About a quarter before two.

Q. Did you, in the course of that same day, see Wratten and Wood?

A. Yes.

Q. Did Wood say any thing to you, respecting any part he was to take in the accomplishment of this plan?

A. Yes; "*he said he would post himself sentry over the great gun in the Park, and load it, and fire it at his Majesty's carriage, as it passed, in going to the House.*"

Q. Wood is a soldier, I think; you told us?

A. He is.

Q. Is he, in the course of his duty, sometimes centinel at that gun?

A. He might be so.

Q. Did you go to the Oakley Arms upon the 16th of November?

A. Yes, I did.

Q. For what purpose did you go?

A. To meet Colonel Despard, according to his appointment and order.

Q. At what time did you arrive there?

A. I believe it might be at about half past nine o'clock, or a quarter before ten.

Q. Did you find that the police officers had been there?

A. Yes; and I found they were in custody when I came there.

Q. Had any of them been sent away then?

A. I saw some of them taken away; I saw Broughton go away, then I went into the tap-room; I had a pint of porter, I did not like it; then I called for some gin and water.

Q. Whilst you were there, did you see a gentleman you have since known to be Mr. Stafford?

A. I did.

Q. Did you enter into any conversation with him?

A. I did.

Q. Did he introduce the conversation?

A. No; I introduced the conversation with him, and told him who I was.

Q. Did you give him your address?

A. I did.

Q. Did you communicate to him, that you were acquainted with circumstances which related to that night's business?

A. Yes.

Q. Did he, in consequence of that, appoint you to meet him at Union Hall, the next day, before the magistrates?

A. I told him I would be there any day he chose to appoint.

Q. He made the appointment for you to be there?

A. Yes.

Q. And then you were at liberty; nobody obstructed you?

A. Yes; I went about my business.

Q. Did you keep your appointment the next day?

A. I did; he told me to be there a quarter before eleven o'clock.

Q. You have spoken of a person you have called Emblin, that you saw at the Flying Horse. Did you know him before you met him in the parlour there with Colonel Despard?

A. I never saw him till that time; I am not certain whether he was in the room when I first went in, or came in afterwards.

Q. You can read, cannot you?

A. Yes.

Q. Was it a card similar to this, which you delivered to Mr. Bownas?

A. It was.

Q. You spoke of affidavits being printed for the delegates; look at this paper; were the papers similar to this?

A. They were.

Thomas Windsor,

Cross-examined by Mr. SerjeantBest.

Q. How long have you been a soldier?

A. I believe about eleven years.

Q. What age are you now?

A. Twenty-five, the twenty-fourth of last October.

Q. You know Blades?

A. Yes.

Q. You belonged to this conspiracy from the month of March?

A. No.

Q. I understood you to say so?

A. No.

Q. When did you belong to it first?

A. About six weeks after I came up from Chatham.

Q. What time of the year was that?

A. The latter end of May or June, I believe.

Q. Did Blades belong to the conspiracy?

A. He did.

Q. Who swore Blades in?

A. John Francis.

Q. You mean to swear, that John Francis swore Blades in?

A. Yes.

Q. Do you recollect inviting any persons to go to the Oakley Arms, on the 16th?

A. Yes,

Q. Who were those persons?

A. I took a man with me of the name of James Mayhem.

Q. Did he belong to the conspiracy before?

A. Not to my knowledge; he said he had been united in Ireland.

Q. Did you take any other persons there that night?

A. I did not.

Q. Did you invite any other to go there that night?

A. I might, but I do not recollect it; I might, but I can't be positive.

Q. Did you desire any persons to attend that night, who had not attended any of the meetings before?

A. No; I had no acquaintance with any persons who had not attended the meetings before, that I asked to go there that night.

Q. Did you ask any of your fellow workmen to go there that night?

A. Mayhem was the only one I asked; he was my labourer that day.

Q. Will you swear you did not invite any other persons to go there that night, that had never attended any meetings before?

A. I will not swear that I did not; I used to invite people that had not been there before to go.

Q. For what purpose?

A. To make them believe that they were my own party, for my own safeguard.

Thomas Windsor,

Re-examined by Mr. Garrow.

Q. Who was it you wiſhed to persuade that they were part of it?

A. There was one of the name of Mayhem, an Irish labourer, there was another of the name of Marney, an Irish labourer.

Q. Had those persons told you they were united Irishmen?

A. They had.

Q. You said one reason was for your own safety?

A. These people told me they had been united in Ireland, that was the reason why I took them there, as I was ordered to bring those people there; Mr. Bownas told me to keep an eye upon these people, and put myself as forward as possible.

Lord Ellenborough. Mr. Bownas recommended to you to pursue measures of this sort?

A. Yes.

Mr. William Bownas sworn.

Examined by Mr. Common Serjeant.

Q. You live in Derby street, I believe?

A. I do.

Q. You are an Army Agent, I believe?

A. I am.

Q. Look at that card (No. 7.) who did you receive it from?

A. I believe I received it from Thomas Windsor, but I cannot positively swear I did.

Q. Have you more of them, which makes you doubt?

A. I never had but that one, but whether he left it in my office or not; I cannot say.

Q. Who is Windsor?

A. A soldier in the guards.

Q. Had you any conversation with him respecting the purport of that card?

A. Yes I had, undoubtedly.

Q. Did you give him any directions or advice as to his conduct?

A. I certainly gave him advice as to his conduct, when he mentioned that such a meeting as this existed. The advice I gave him was—

Mr. Gurney. We do not want your advice.

Mr. Common Serjeant. Did you give him advice as to his conduct respecting that card?

A. I did.

Q. At what time was it?

A. About July last.

Q. Look at that card; have you any doubt about it?

A. I can have no doubt; it is the card that was left for me, for that I received from him; I have no doubt it is the same.

Q. And upon which card you gave him advice and directions how to act?

A. I did.

William Campbell sworn.

Examined by Mr. Wood.

Q. Are you a soldier in the guards?

A. Yes; I was stationed in the Tower.

Q. Do you know the Coach and Horses, in Whitechapel?

A. Yes.

Q. Were you there on the 15th of November last?

A. Yes.

Q. Was any body with you?

A. Yes; Charles Dean, another soldier, who is quartered in the house, was with me.

Q. At what time were you there?

A. About two o'clock.

Q. Where did you sit?

A. In the box in the front of the fire in the tap-room.

Q. Do you remember any persons coming into the tap-room.

A. Yes.

Q. How many came in?

A. Four.

Q. How were they dressed?

A. There were two soldiers that had got their soldiers coats on, and there were two other men in coloured clothes.

Q. Was one better dressed than the other?

A. Yes; one was better dressed than the other, and had an umbrella in his hand.

Q. Who were the two soldiers?

A. Windsor and Winterbottom.

Q. Should you know that gentleman again?

A. Yes; I should know the one again that had the umbrella in his hand; that is the gentleman (pointing to the prisoner).

Q. Did the prisoner say any thing?

A. He and Windsor were discoursing together.

Q. Could you hear what their discourse was?

A. I did not hear what they were saying.

Q. Were they in the same box with you?

A. Yes.

Q. Was any thing said about bread and cheese?

A. Yes; they asked the landlord if they could have any bread and cheese.

Q. Which of these asked the landlord?

A. I do not recollect; the landlord told them he did not keep any, but they could have some below, at the shop.

Q. Was there any bread and cheese sent for and brought?

A. Yes.

Q. Did the prisoner say any thing to you?

A. We were asked, I do not know by which of them, if we would have any bread and cheese, we told them we had just dined, and would not have any.

Q. You did not know the fourth man, did you?

A. No.

Q. Did you hear him say any thing?

A. No; he asked us after several men belonging to the regiment that we did not know, and could not give him any account of them; that man was in coloured

clothes, he said he had been once in the regiment, but that he was discharged.

Q. Did he say how long he had been discharged?

A. I do not recollect.

Q. How long did they stay?

A. Half an hour, or better.

Q. Did you see them go away?

A. Yes.

Q. Did they go together?

A. They went out of the house together; the two soldiers went up Whitechapel, towards the Tower, the other two gentlemen went down Whitechapel.

Charles Dean sworn.

Examined by Mr. Fielding.

Q. Were you, on the 15th of November, on the Tower duty?

A. No.

Q. Do you remember being at a public house, on Monday, the 15th of November, in company with William Campbell?

A. Yes.

Q. What was the public house where you were in company with him?

A. The Coach and Horses, Whitechapel.

Q. Was it between the hours of twelve and two, think you?

Mr. Serjeant Best. We beg you will not put the hour into his mouth.

A. It was about half past one.

Q. Campbell and you were sitting together in a box?

A. Yes.

Q. Do you know Windsor?

A. Yes.

Q. Do you know Winterbottom?

A. Yes.

Q. Did you see them come into the public house, while you were sitting there?

A. Yes.

Q. Any body else with them?

A. Yes.

Q. Was that gentleman (the prisoner) one of the persons accompanying them?

A. Yes, and there were two besides.

Q. The soldiers were in regimentals, were they not?

A. Yes.

Q. How was the prisoner dressed?

A. In a blue coat, and he had an umbrella with him.

Q. Did the prisoner say any thing to you or your companion, Campbell?

A. No further than when they came in, they asked the master for some bread and cheese; he said he did not sell any, but they might get it below; the prisoner gave the boy some money to fetch some bread and cheese; when the bread and cheese came, they asked us if we would have any.

Q. Who asked you?

A. The prisoner; we told him we had just dined: they called for some beer—they had two pots; they asked us if we would drink, we drank once a-piece with them; then the prisoner paid for it, and they got up and went out, the two soldiers went towards the Tower, and the prisoner and the other gentleman went down Whitechapel.

Joseph Walker sworn.

Examined by Mr. Abbot.

Q. Where do you live?

A. I keep the Coach and Horses at Whitechapel.

Q. Were Campbell and Dean quartered at your house last November?

A. Dean was, but not Campbell.

Q. Do you remember their being there together?

A. I remember Dean and a person being with him, a soldier; I should not know that man: they both came off from duty at the Tower.

Q. At the time they were there, did any other persons come?

A. Before they came in, there were two men of the appearance of gentlemen came in; I was down in the

cellar at work, when I came up from the cellar, I saw two persons decently dressed sitting at one end, and they had a pot of porter; they asked me when I came out of the cellar, if I could let them have any bread and cheese, I told them I did not sell any, they might get it a few doors up the street.

Q. Were there any other soldiers in company with these two persons that you say were decently dressed?

A. Windsor was with them; Windsor was one of the men that sat at the end of the table.

Q. Who was the other that sat at the end of the table?

A. I do not know who he was; he was genteelly dressed, in a blue coat, and had an umbrella.

Q. Were they the only two persons in that room?

A. They were the only two men in that box; while they were drinking the pot of porter Dean and the other soldier came from the Tower from duty.

Q. Was Windsor one of the men that you said were genteelly dressed?

A. Yes.

Q. Do you know who was the other?

A. I should not know him if I saw him; he was genteelly dressed, and had an umbrella with a hook stick.

Thomas Blades sworn.

Examined by Mr. Serjeant Shepherd.

Q. I believe you are a private soldier in the first regiment of foot guards?

A. Yes.

Q. Do you know a man of the name of John Francis?

A. I do, he is a soldier.

Q. Do you remember having any conversation with Francis at any time, in the presence of a person of the name of Thomas Windsor?

A. I do.

Q. When was the first conversation you had with him?

A. About the beginning of June he informed me

"*There were a great number of independent gentlemen had united themselves together, to form and establish a free and independent constitution, for* (he said) *the present constitution was much broken.*"

Q. Had you conversation with him at any other time?

A. He desired me to join him—"*To take an oath to join into their society.*"

Q. Repeat what he said about the constitution being broken?

A. He said, "*That the old constitution was much broken, and that the gentlemen who had united themselves together were determined to risk their lives and fortunes in establishing a free and independent constitution.*"

Q. Was any oath produced to you at that conversation?

A. Not at that conversation.

Q. How long afterwards was it before you had any conversation with John Francis upon the subject?

A. The next Sunday.

Q. Was Windsor present at any of that conversation?

A. He was along with me at some part of it, but at the time that I took the oath I turned away.

Q. Was any paper or card produced to you at that conversation?

A. There was a card produced to me by John Francis; I read it.

Q. Can you recollect what was the purport of the card?

A. I cannot rehearse the whole of it; there was the Constitution of the United Kingdoms of Great Britain and Ireland, and that the society was determined to get those rights which God had ordained for them. But I hope you will excuse me, for I cannot go through what was wrote upon the card, not the whole of it. There was something at the bottom of it, that you took the oath which you swore in the presence of Almighty God, to endeavour to get those rights which you took the Oath to maintain.

Q. Do you think you should know the contents of the card if it were read to you?

A. Yes, I should.

Q. Upon your reading this card, was you desired by John Francis to do any thing?

A. He desired me to go along with him to the Ham and Windmill.

Q. What did you do when you read the card?

A. I kissed the card.

Q. Who told you to kiss the card?

A. John Francis.

Q. Why did you kiss the card; was that the manner in which you were to be sworn?

A. It was.

Q. In consequence of kissing this card where did you go with it?

A. After we had settled our business on the parade, we went up to the Ham and Windmill.

Lord Ellenborough. Did this pass upon the parade?

A. Yes, I was sworn upon the parade.

Mr. Serjeant Shepherd. Where is the Ham and Windmill?

A. In Windmill-street, the top of the Haymarket.

Q. Did any body go with you besides John Francis?

A. Yes, Thomas Windsor.

Q. How long did you stay at the Ham and Windmill?

A. I do not suppose we were there above twenty minutes, hardly that.

Q. At any time afterwards were you with John Francis at the Ham and Windmill?

A. I was there about the latter end of June, when I was fetched by his brother William, the same evening the balloon went off from Lord's cricket ground.

Q. Who was present at the Ham and Windmill, when you went with John Francis the time you have mentioned?

A. William Francis and I went up there, and waited a considerable time. This was the second time of being at the Ham and Windmill.

Q. Did you see John Francis there at that time?

A. I did; he came there after William Francis and I were there, about the latter end of June.

Q. Did any body come with John Francis?

A. There was a man that passed for a breeches-maker; I was told by William Francis that his name was Connelly, and Macnamara came in soon afterwards; there were some old people there, but their names I do not know.

Q. Did those persons, whose names you did not know, form part of the same company?

A. They did.

Q. Did you hear any of those persons say any thing to the company?

A. Yes, Macnamara addressed the company, he said—"*He came from the executive power, and he addressed the society, and exhorted them to stick together, and to the best of their endeavour to arm themselves, so as that they might be able to make head against Government.*"

Q. Do you recollect any thing else?

A. Yes, he said, "*that he had full power from the Executive Government to appoint the Colonel to command the first regiment of national guards.*"

Q. Was any body pointed out as a fit person for this?

A. Yes, he appointed John Francis.

Q. Were any other persons mentioned?

A. Yes, he appointed John Francis, and authorised him to appoint three more, and likewise an officer of artillery. Macnamara said, "*he was to appoint them without partiality.*"

Q. What did John Francis say upon that?

A. He appointed me as one, and the two other men, whose names I do not know; but this man, that went by the name of Connelly, and that passed for the breeches-maker, was appointed another, and a little man was appointed another.

Q. In consequence of that, do you remember the little man going out of the room and coming back again?

A. Besides that, he appointed a man, whose name I cannot recollect, to be a captain of artillery, because he had been used to gunnery; he appointed three colonels, and he appointed that person. He swore in one on the Sunday, when Windsor and I were present, to be a captain of artillery.

Q. Do you remember the little man going out of the room, and coming back again?

A. I do; he and John Francis went out together.

Q. What passed when the little man came back again?

A. The little man and John Francis returned back again, and John Francis had a paper in his hand, and there was wrote upon the top of it, "*The first regiment of national guards,*" and an appointment of colonels to command the regiment.

Q. Was any proposal upon that made by any body?

A. There was one of the men, which was the breeches maker, said something concerning commissions being issued out, but Macnamara said, "*That issuing out commissions would be signing their death-warrants; that the officers should receive their commissions the night before the attack should be made.*"

Q. Do you remember afterwards being at any public house with John Francis and Macnamara?

A. The next time I saw John Francis was the 6th of September, in the Tower.

Q. Where were you at that time?

A. On the main guard at the Tower.

Q. When did you see him next after that?

A. The next time after that was the Sunday following, which would be the 12th; he came down to me at the Tower.

Q. When after that did you meet him again?

A. On the Monday following, at the Bleeding Heart, in Charles-street, Hatton-garden.

Q. Who were there besides John Francis?

A. There were John Francis, Wood, Tyndall, Wratten, Penderill, Macnamara, and Winterbottom, I believe. I cannot recollect any other names positively, but there were several other persons there.

Q. To about what number?

A. About a dozen I suppose, or fourteen.

Q. What was the subject of conversation?

A. Wratten spoke up, and he spoke to Penderill, and said, "*he had come from the Borough along with Tyndall, to know the determination of the Executive, with regard to when the attack should take place.*" Mr. Penderill, in answer to that, said, "*That the attack would have taken place before, if it had not been for two or three cowards, Roach in particular, not bringing up their men; but he said it should lose nothing on his part, he could bring a thousand men into the field at any time;*" he said, "*that in case he saw any man shew the least symptom of cowardice he would blow his brains out.*" John Francis in answer to that said, "*He thought it would be better to make the attack as soon as possible, at least before the Den of Thieves met,*" which was the term he made use of for Parliament; he said, "*if in case they discovered any of our proceedings, or were any way up to them, that they would enact such laws as that we should never be able to meet together, or to correspond with each other.* In answer to that, Penderill said, "*There was not the least danger of it ever being found out, for he had belonged to it a considerable time, and many persons had been taken up at different times, but had never divulged the secret; and if in case any man should divulge the secret, he should have a dagger in his breast directly.*

Q. Do you remember any other person saying any thing in consequence of this?

A. Wood said, "*In case he should not be there at the great attack, he had a select party of his own, where he should be, and it would be of as much importance as where the great attack should take place.*

Q. Was any thing proposed or agreed, in consequence of what had been said?

A. Ammunition was ordered to be provided for the people.

Q. Who was the ammunition to be provided by?

A. By the *Executive*.

Q. Who was the person who used the term of Executive?

A. Both Macnamara and Penderill; but it appeared to me as though Penderill were one of the *Executive.*

Q. Do you remember meeting John Francis at any time afterwards?

A. On a Sunday after that I was coming along the High-street in the Borough, I met with John Francis; he asked me if I would go with him down Tooley-street, to the Black Raven; I went with him; there were Wratten, Tyndall, Wood, and Macnamara there, and about six or seven Irishmen, in a state of intoxication.

Q. How many persons were there at the Black Raven?

A. About twelve or thirteen.

Q. Had you any conversation on the same sort of subject?

A. Similar to the rest; the conversation we had there was concerning a form of Government.

Q. Do you recollect being at the Oakley Arms at any time after that?

A. Yes; on Tuesday the 9th of November.

Q. How do you know it was the 9th of November?

A. I was going from East Smithfield, where I worked, up to Knightsbridge Barracks, to receive my pay: going through Cannon-row, I met with Broughton; he told me, *there was a meeting to be at the Oakley Arms that night, prior to the attack being made on the 16th; he said,* "*that the heads of the people would be there to settle it, and he desired me to call upon him at the Oakley Arms.*"

Q. Did you go to the Oakley Arms in consequence of that?

A. Yes, I did.

Q. Into what room did you go when you went there?

A. I went first into the tap-room, and called for a pint of beer and a pipe of tobacco; then I went into the bar and asked the landlord if he knew one Broughton; he called his boy directly, and told him to go

up stairs and tell *Tom*, that there was one wanted him; in consequence of that, Thomas Broughton came down to me in the tap-room; he took my pint of beer and ran up stairs; as he went up stairs he said, "the Colonel is here."

Q. Did you go up stairs with him?

A. I did; I went into the room; as soon as I got into the room, a gentleman presented me with a shillings-worth of rum and water to drink round.

Q. Do you now know who that Gentleman was?

A. I do; it was Colonel Despard: the way I came to be acquainted with him that evening was, Wood came and whispered into the gentleman's ear that gave me the liquor, and says, "*the gentlemen that are come upon business this night, ought to retire into one end of the room, and those that are only come to shew their good will, may remain at the other.*"

Q. Do you recollect the words he used?

A. He said, "*when there were a number of people upon such business as that, there were wrangles often arising, and that those that were come upon business, or to settle the business,*"—

Q. Which was the phrase he used?

A. To *settle* business: It was agreed on afterwards, that those who came to settle business, should have the preference of the fire; and those that came to shew their good will, were to go to the other end of the room, where there was no fire.

Q. Did you hear these persons called by any particular name who came to settle business?

A. I heard no particular name, any further than *Representatives from different divisions.*

Q. In consequence of that did any of them retire to the other end of the room?

A. The men that came to shew their good will retired to the other end of the room, where there was no fire, and by that means I did not hear what was passing among those that came to settle business.

Q. Did you see where Colonel Despard was?

A. He sat at the table towards the fire, with his right side against the fire; I did not hear what passed

among those next the fire. Broughton, in the first place said to me, "There is the Colonel, pointing over to him, did you ever see him before?" I said no, I did not; says he, "he is a very fine man." I asked Broughton whether he was fluent of tongue? he said, yes, he was.

Q. Had you any conversation with Wood?

A. Wood spoke concerning being up in the Mall, between the private gate of his Majesty and Buckingham-house; he said, "*that would be the most proper place to attack his Majesty, because there would be no horse-guards there when his Majesty came out of his private gate after levee day to go to Buckingham-house.*" Broughton said, at the time, "*the Parliament House must be attacked, and after that business was done there, that they should hie away to the Tower directly.*

Q. Did you stay till the meeting was broken up?

A. I did not. I quitted that house about a quarter before ten o'clock.

Q. Did you leave all thepersons there that you met?

A. I did.

Q. Did you meet Colonel Despard, or any of the other persons, after that time, before they were taken up?

A. I never met them again till they were taken up.

Thomas Blades,

Cross-examined by Mr. Gurney.

Q. How long have you been a soldier?

A. Nine years and four months.

Q. Have you been so long in the guards?

A. Yes.

Q. How often have you been flogged in the guards?

A. I have been punished twice.

Q. Not three or four times?

A. I have been tried by three or four Courts Martial.

Q. What for?

A. The first was for absenting myself from the regiment.

Q. Is that what we call desertion?

A. Yes.

Q. And you were punished only twice?

A. Yes; I was forgiven the first time.

Q. Have you ever been flogged for any other offence besides absenting yourself from the regiment?

A. I never have been charged with any theft. I have been charged with beating a watchman.

Q. You never have been charged with any theft; that you swear positively?

A. I was never brought to any bar.

Q. Was you never charged with any theft without being brought to any bar?

A. No.

Q. That you swear?

A. I do.

Q. And that you swear positively?

A. I swear positively I was never brought before any Justice.

Q. I did not ask if you were brought before any Justice; do you mean to swear you never had any theft imputed to you?

A. Never to my knowledge.

Q. Have you never been charged to your face with theft?

A. That I am pretty sure of.

Q. Cannot you be quite sure of it?

A. I am quite sure of it.

Q. Do you know a person of the name of Tibbetts?

A. I do.

Q. Do you mean to swear you never were charged by Tibbetts, and to your face, with having stolen something from him?

A. I worked for him. I had some leather by me, and some of it was lost.

Q. Did he charge you with stealing any of it?

A. He did not charge me with stealing of it; he said I had made away with it.

Q. How long ago is that?

A. The winter before we went to Holland.

Q. And you mean to say you never upon any other occasion had any charge made against you?

A. No, none; but if you please to recollect, with regard to this leather, I paid Mr. Tibbetts for it, and he never brought me before any Justice for it.

Thomas Blades,

Re-examined by Mr. Serjeant Shepherd.

Q. You have been asked, whether you had been tried for desertion?

A. I was tried for absenting myself from the regiment.

Mr. Gurney. You talk of absenting yourself from the regiment, how far off did you happen to get?

A. About two hundred miles.

Mr. Serjeant Shepherd. After you were tried for that, you were forgiven by the commanding officer?

A. I was.

Q. And you were permitted by your commanding officer to join your regiment?

A. I was.

Q. And you have served ever since?

A. Yes; and I have been on the Continent during the war.

Q. Where have you served since you joined the regiment?

A. In London, at Colchester, and Chatham. I served in the late expedition to Holland; and I was on the Continent. I went to the Continent the 5th of July, 1794, to the best of my recollection, and joined his Royal Highness the Duke of York at Antwerp.

William Francis sworn.

Examined by Mr. Plumer.

Q. Are you a private in the first battalian of foot guards?

A. Yes.

How long have you belonged to that regiment?

Q Two years last Christmas.

Q. During the time of your being in that regiment, do you know of any practice of swearing soldiers, or applying to them to be sworn?

A. Yes.

Q. Were you applied to by any body?

A. Yes; by the prisoner, Colonel Despard.

Q. When did he apply to you for that purpose?

A. At Tower-hill, near upon Bartholomew Fair day, in the month of September, I believe.

Q. Had you been applied to before that time by any body for the same purpose?

A. Yes; by John Francis, and by Wood.

Q. What had they applied to you to do?

A. To be sworn to their intentions against the King and Government.

Q. Was any paper or card produced to you?

A. Yes; many times.

Q. Can you read?

A. I cannot.

Q. At the time of applying to you, did they explain what the nature of the card or paper was?

A. They did.

Q. What was it?

A. To overthrow the present system of Government, and kill all the Royal Family; and *help me God* was at the bottom of it; it was a small card.

Q. What did they propose you should do when you had heard the card read?

A. To kiss it.

Q. Did you do so?

A. No; I never did.

Q. You said Wood and John Francis had applied to you before Colonel Despard?

A. Yes; many times.

Q. At what place did Colonel Despard apply to you?

A. Near Tower-hill.

Q. Was it a card like this?

A. Yes; that was the card that was first shewn to me, to the best of my recollection.

Q. Was there any paper besides that card?

A. Yes; a paper like this; the first I saw of them my brother John Francis shewed to me.

Q. At what place was it that Colonel Despard applied to you to be sworn?

A. At the Queen's Head, or the King's Head, a public house, facing Great Tower-hill.

Q. What did Colonel Despard say to you?

A. He asked me, "*What were my principles, and my desire for the cause that was going forth of taking the Tower,*" upon that day, or something of that nature, as near as I can recollect.

Q. What did you say to him?

A. I told him I did not approve of it at all; I asked him what was to be done that day, as soon as I saw him upon the Hill; he said, "*There was nothing to be done, for he expected some money and news to come from France.*"

Q. Did you see him upon Tower-hill on that day?

A. Yes; he met me in the street, and spoke to me before I saw him.

Q. Do you know whether the people that were upon Tower-hill on that day continued or dispersed?

A. They dispersed.

Q. How came they to disperse?

A. They dispersed towards night, because their plan could not be fulfilled as was desired; so John Francis told me.

Q. Do you know by whose orders or directions they were dispersed?

A. By Colonel Despard's orders, I believe.

Q. Did you hear him say any thing about it?

A. Colonel Despard said, "*There was nothing to be done*;" he told me so with his own mouth.

Q. Where was it that Colonel Despard applied to you to be sworn?

A. At the public-house, the first time he read the paper over to me; I believe the words are in No. 1.

Q. After he had read it over to you what did he do?

A. He read it over to me, and gave it into my hand to kiss.

Q. Do you remember seeing Colonel Despard afterwards at any place?

A. Yes; at the Bleeding Heart, in Hatton-garden.

Q. Who were present there?

A. Myself, and John Francis my brother, Wood, and Macnamara.

Q. Were there any more persons there?

A. Yes; there were a great many at that meeting that I saw.

Q. And Colonel Despard was there?

A. He was; that was a few days after Bartholomew fair.

Q. Did you hear any thing pass with Colonel Despard that day?

A. A paper was read over concerning the plan of taking the Tower, the Bank, and the Horse-guards.

Q. Did Colonel Despard say any thing to you that day about yourself?

A. He read over the same paper to me in the corner, at the top of the table; then my brother John and he desired me to kiss it. Colonel Despard said, "*he hoped my principles were mended from the last time he saw me.*"

Q. Did you comply with what he desired?

A. I did not; he said, "*it was very odd that my principles were not the same principles as my brother's,*" or something of that sort.

Q. Do you know the Coach and Horses, near Moorfields?

A. Yes.

Q. Were you ever there?

A. Yes; on the Sunday after I came from Windsor.

Q. Who did you meet there?

A. One Connelly, otherwise Hayes; he used to go by two names; Wratten I think was there, and Mack.

Q. By Mack do you mean Macnamara?

A. Yes, Macnamara; he used to go by the name of Mr. Mack, and there were a number there, but I cannot recollect all their names; Wood and Newman were there.

Q. What was the subject discussed at that meeting?

A. Concerning a paper that Wratten brought from Windsor respecting the plans of Government.

Q. Were there any soldiers at that meeting?

A. Yes.

Q. Do you remember their doing any thing at that meeting?

A. Yes; *we drawed our bayonets, and protested we would have a time fixed to make the grand attack upon the Tower before we left the company.*

Q. Do you remember what was done with that paper which Wratten brought?

A. He never gave it into the grand committee; he told me he had not given it to the grand committee. I went to the Running Horse; we went to settle the business.

Prisoner.—I must beg your Lordship to permit me, for a short time, to sit near my counsel; I can make no communication from hence.

Lord Ellenborough.—You must communicate in the usual way.

William Francis. Mack said he believed he should meet with the Colonel at the Running Horse; we all went, the remainder of the company that were left, to the Running Horse.

Q. Did you go up stairs at the Running Horse?

A. Yes; we went into the front room, and, as before, *we drawed our bayonets, and would have the time fixed before we left the room, or we would do it ourselves.*

Q. Did you see any body else there besides those persons who went along with you?

A. Mack was there, and he stated the desire of we soldiers to send down to the grand committee.

Q. How soon did you after that see Colonel Despard?

A. Not a great while; I cannot say particularly as to the time, it might be a week, or it might be rather more.

Q. Where was it you saw him next?

A. The next time I saw Colonel Despard, I believe we had a shillings worth of brandy and water, him and my brother and I.

Q. Was the meeting by appointment?

A. No; we met him that time accidentally.

Q. Did any thing pass between you and him then?

A. He offered me a small card which my brother gave to him; he looked it over, and then handed it down to me, meaning for me to kiss it, if I would; he said, "*he was sorry I was not of the same principles as my brother and he.*"

Q. Did you kiss the card?

A. I did not.

Q. Did you tell him why you did not kiss it?

A. I told him I never would; that I had been sworn once to my King and Country, and would never be sworn again.

Q. Did Colonel Despard do or say any thing upon that?

A. I cannot say that I recollect.

Q. Do you remember ever seeing Colonel Despard at the Black Horse?

A. At the Running Horse; I never was at the Black Horse.

William Francis,

Cross-examined by Mr. Serjeant Best.

Q. How long have you been a soldier?

A. Two years last Christmas.

Q. How often has it happened to you during the course of that time to get a flogging?

A. I never got a flogging in my life.

Q. That you swear and protest?

A. Yes; upon the bible, or any book whatever.

Q. You have no doubt about it?

A. I never was tried by any Court Martial.

Q. I do not ask you whether you ever did desert, but whether you were ever charged with deserting?

A. I cannot say that I was ever charged with deserting; I did desert, if you may call it deserting; I was scarcely twenty-four hours from one battalion before I was with the other.

Q. Was that the only time you were ever charged with deserting?

A. It is.

Q. And you are sure you were never flogged?

A. I am.

Q. Who did you leave Chatham with?

A. One Cassel.

Q. Were there any inquiries after you?

A. A corporal and men were sent after both.

Q. Why?

A. It is a general case if any desert, if they are out, to send to London after them.

Q. Was that the only reason?

A. Yes; and some watches that Cassel had.

Q. You and Cassel came away together, and the reason of the corporal and the men coming after you, was for the watches also?

A. It was more on account of the man than it was for the watches, the watches did not belong to the army.

Q. They were taken from a shop, were they not?

A. No; from different houses, and different people of the town.

Q. And you travelled up with Cassel?

A. Yes; upon the coach.

Q. Do you remember where the watches were put into pawn?

A. One or two were put in pawn at Chatham, and when I returned again I fetched one or two out, with the assistance of the corporal.

Q. You told the corporal where these watches were to be found?

A. The corporal asked me if I saw any watch marked with a cypher at the back of it?

Q. You happened to know where they were to be found?

A. I knew where that was, because I was with Cassel when he pawned it.

Q. You saw him with some more?

A. Yes; I saw him give a coachman some.

Q. You knew of his taking these watches away with him?

A. I knew it when he came from Chatham.

Q. You saw him pawn one in Chatham?

A. Yes.

Q. Tell us what that hint was?

Mr. Serjeant Best.—What name did you generally pass by in the world, before this transaction took place?

A. Patrick, and sometimes Mich.

Q. What surname?

A. Connell.

Mr. Serjeant Best.—I submit to your Lordship, that this man cannot be examined, because he is not properly described in the list of witnesses.

Lord Ellenborough.—The witness assumes a different name by the desire of the prisoner; then how is the prisoner defrauded by a different name?

Mr. Serjeant Best.—Your Lordship knows, that under this statute, it is required that those who advise the prisoner should be apprised of the christian and surname of those that come to be examined as witnesses against him, in order that they may enquire what sort of persons they are. Here I submit it is necessary they should be furnished with the christian and surname, which the witness has in the world.

Mr. Attorney General.—I had rather we should not have the benefit of the testimony of this witness, than that there should be any doubt about the prosecution.

Lord Ellenborough.—It is extremely fair and candid in the Attorney General to relinquish the witness. Where a name is assumed for the purpose of fraud, I have very little difficulty in saying that the person who is guilty of the fraud, shall not avail himself of the objection.

John Bird sworn.

Examined by Mr. Garrow.

Q. You are a shoemaker at Oakingham, I believe?

A. Yes.

Q. Do you know a person of the name of John Francis?

A. Yes.

Q. Do you remember John Francis coming to you at your lodgings at any time in the month of August last?

A. Yes; he came to me at my lodgings at New Windsor.

Q. Did he produce any thing to you at that time?

A. Not the first day when he came.

Q. What passed the first day he came to you?

A. He asked me who I worked for? I said Mr. Grant, a shoe-maker; he asked me who he was? I said he worked for the Royal Family; he said, "*he would be bound he was a pretty villain.*"

Q. How soon did you see him again?

A. I believe it was the next day.

Q. Did he come to your lodgings again?

A. Yes; he told me then "*that the King would be dethroned.*"

Q. Can you tell about what time that was?

A. The beginning of August.

Q. Was he at that time stationed with his regiment at Windsor?

A. Yes.

Q. The guards were at that time upon duty there?

A. Yes.

Q. What more did he say to you?

A. He told me in what manner the new Parliament would be raised.

Q. What new Parliament?

A. The Parliament that was to be raised after the king was dethroned; "*that every parish was to form themselves into a committee of fourteen, and then into seven, and one out of every seven was to come into the Parliament house.*"

Q. Did he produce to you at that time, or at any other, any paper?

A. Not at that time, he did at another.

Q. Did any thing material pass at that second meeting more than you have already stated?

A. Yes; he asked me about Windsor Castle; he asked me what kind of a place it was? I told him I did not rightly know, for I was never in it farther than

through the Cloisters, and into the King's Cathedral twice. He asked me what plate there was in Windsor Castle, and if I knew whether it was silver or gold? I did not know; I could not tell him.

Q. After this second meeting, how soon did you see him again?

A. I do not know whether it was that day or the day after, but he used to come almost every day; he told me when he came again, he had got something he would shew me; he shewed me a card.

Q. Can you read?

A. Yes.

Q. Did you read the card?

A. I did.

Q. What did you do when you had read it?

A. I offered it to him again; he would not take it; he damn'd my soul, and bid me kiss the book.

Q. What was you to kiss the book for?

A. I do not know.

Q. Did he explain what he wanted you to kiss the book for?

A. Not then.

Q. You offered to give it him back again, and he would not take it?

A. No, he would not; he damned me, and bade me kiss the book; I put it to my head as if I kissed it, and offered it to him again; he did not take it quite so soon as I wished; I chucked it to him, and it fell upon the floor; he took it up, and put it into his pocket.

Q. Should you know the card again if you were to see one of them?

A. Yes.

Q. Read that card (giving to the witness, No. 1. who read it).

A. This is something of the card he shewed me.

Q. Do you believe it to be the same in substance as that card?

A. I do.

Q. Was it a card of this size?

A. It was.

Q. Did any further conversation pass between you?

A. Yes; at the same time he asked me to let him leave a book with me at my lodgings, which I refused.

Q. Did he shew you what the book was?

A. No, he did not; only he said it was a book that he did not like to keep at the barracks.

Q. He did not shew it you, or explain what it contained?

A. He did not.

Q. Did he say any thing about any pay that was to be given to any one?

A. He offered me three shillings, or three and sixpence a day to come along with him to London, and a twenty pound note the day I was called upon.

Q. What were you to come to London to do for this pay?

A. To join his Society.

Q. For what?

A. "*To fight, to burst the chain of bondage and slavery;*" that was the answer he gave me when I asked him.

John Pike sworn.

Examined by Mr. Garrow.

Q. Are you a soldier in the guards?

A. Yes.

Q. Do you know one Wood of the first regiment?

A. Yes.

Q. Did he at any time at the barracks make any application to you, and shew you any card?

A. Yes, he did.

Q. Were you in the same company with him?

A. Yes.

Q. What did he say to you?

A. He shewed me a card, and said, "*Will you agree to this, and abide by it?*"

Q. Can you read?

A. Yes.

Q. Did you read the card he shewed you?

A. Yes.

Q. What did you do with it?

A. I returned it him when I had read it.

Q. Can you state the substance of it?

A. I cannot.

Q. Was it of a size like this card?

A. It was.

Q. Read it over (the witness read it). Was it in substance the same as that?

A. Yes; I returned it back to him when I had read it, and told him I would not.

Q. What more did he say to you about it at that time?

A. He told me "*that there were upwards of three hundred or four hundred of the soldiers of the third battalion lying in the Tower, that had already engaged in the Constitution Society.*"

Q. Did he mention how many there were of the first battalion, that which you belonged to?

A. He said about thirty of the first battalion.

Q. Was the Constitution Society that which he described, and gave you that card to accede to?

A. It is.

Q. Upon your coming to London with the battalion from Windsor, did you see Wood again?

A. Yes.

Q. Do you know a person of the name of John Francis?

A. Yes.

Q. Did you see him and Wood together?

A. Yes.

Q. Did they invite you to go to any meeting at any place?

A. Yes; to the Ham and Windmill, in Windmill-street.

Q. What did they propose to you to go for?

A. To have something to drink along with them; that it should cost me nothing.

Q. Did you go in consequence of that?

A. I did; I went along with David Morgan, of the same company that I belonged to.

Q. Who were you directed to ask for?

A. For John Wood and John Francis.

Q. What evening of the week was it?

A. On Sunday night.

Q. How soon was it after the battalion came from duty at Windsor?

A. The second Sunday after.

Q. What part of the house did you go to upon your first going in?

A. I sat in the tap-room.

Q. Were there any more soldiers there?

A. Yes.

Q. Did you continue in the tap-room?

A. There was a man came down, apparently an Irishman, he asked me if I would go up stairs with my comrade Morgan, and some more soldiers in the tap-room.

Q. Did you and Morgan go up stairs?

A. We did.

Q. Did you find Francis and Wood there?

A. Yes.

Q. What number of persons did you find there?

A. About eighteen soldiers and three men dressed in coloured clothes.

Q. Do you think you should know either of the persons that were there, who were dressed in coloured clothes, if you were to see them again?

A. Yes.

Q. Look round the court, and see if you discover either of the persons who were there in coloured clothes?

A. I cannot see him.

Q. Was there any drinking going forwards?

A. Yes.

Q. Do you remember any sentiment given as a toast?

A. Yes, one I remember; "May the wings of Liberty never lose a feather."

Q. That was given as a toast and drank accordingly?

A. It was.

Q. Do you remember any expression that Wood made use of when you returned him the card?

A. Yes; he said, "*If either me or any other man*

were to divulge the secret, we should be immediately put to death."

Q. You do not know all the soldiers, by name, that were at this meeting at the Ham and Windmill?

A. I do not.

Q. Tell us the names of those you do recollect?

A. There was John Francis, William Francis, Thomas Newman, David Morgan, James Saunders, Job Roberts, John Rogers, and there was one there of the name of Brown.

Q. Did Wood and Francis, or either of them, when conversing about this plan, say any thing about pay, if you would engage in it?

A. Yes; John Francis told me, that when we returned to London we should receive three shillings and sixpence per day.

Q. After the meeting you mentioned at the Ham and Windmill on Sunday, did you see any of these persons again, or Francis or Wood, till after they were in custody?

A. I saw them once at the Bleeding Heart, in Charles-street, Hatton-garden.

Q. Was that a meeting of the same sort and upon the same subject?

A. Yes, it was.

Q. Were there soldiers present at it?

A. Yes.

Q. Were Francis or Wood present at that meeting at the Bleeding Heart?

A. They were both there.

Q. Was the business the same as had been discussed at the Windmill, in Windmill-street?

A. It was.

John Pike,

Croſs-examined by Mr. Gurney.

Q. How long have you been a soldier?

A. About three years and eleven months.

Q. Had you ever the misfortune to be punished since you have been in the guards?

A. Yes.

Q. What sort of punishment did you receive?

A. Two hundred laſhes.

Q. What was that for?

A. For absenting myself from my post when on the King's guard, a sentry in the prince's gardens.

Q. Were you never charged with any other offence?

A. No.

Q. You never had any other offence imputed to you?

A. Not that I can recollect.

Q. Trying your recollection, do you never remember having any imputation respecting eggs?

A. No; not to my knowledge.

Q. Will you swear positively, that nothing of that sort ever did happen?

A. Yes; I never was told of ever stealing eggs in my life.

Q. I did not ask you whether you were taken up, but whether, without being taken up, it never was imputed to you, that you had stolen any thing?

A. No; it never was.

Q. Have you never been punished more than that once?

A. Never.

Q. Are you a private in the guards?

A. Yes.

Q. Have you always been a private?

A. No; I have been a corporal.

Q. Have you been reduced from being a corporal more than once?

A. Twice.

Q. And you are now a private?

A. Yes.

Q. How long have you been a private the last time?

A. About eighteen months.

Robert Tomlinson sworn.

Examined by Mr. Common Serjeant.

Q. You are, I believe, a soldier, in the first regiment of guards?

A. Yes.

Q. Were you at the Ham and Windmill, in Windmill-street.

A. Yes.

Q. When?

A. I cannot tell properly the time; it was the second Sunday after the battalion returned from Windsor.

Q. When you went to the Ham and Windmill, how many people did you find there?

A. Upwards of forty soldiers, I believe.

Q. Did you know any of them?

A. Very few of them; Saunders I knew, and Francis I knew very well.

Q. Did you know any others?

A. No other but Job Roberts, with whom I went.

Q. Do you mean John or William Francis?

A. William, I believe his name is; it is the youngest.

Q. The fair man or the dark one?

A. The fair one; the evidence.

Q. Was there any other person whom you knew there?

A. No.

Q. What passed?

A. They were drinking, and a man asked me "*If I would be sworn in;*" I asked what that was; he said, "*A free and easy society.*"

Q. Who was that man?

A. Macnamara.

Q. To be sworn in for what?

A. A free and easy society, *to overthrow the Government, and have our nation the same as France.*

Q. What else was said you?

A. He asked me whether I would come again the Wednesday following, I told him I could not, I should be on duty.

Q. You never went there again, I believe?

A. No; I did not.

Job Roberts sworn.

Examined by Mr. Common Serjeant.

Q. You are in the first regiment of foot guards?

A. Yes; I am.

Q. Do you recollect the day you went to the Ham and Windmill?

A. It was on a Sunday; I cannot rightly tell what day of the month it was.

Q. Was that the day you went with Tomlinson?

A. Yes; we went together.

Q. How many soldiers did you find there?

A. I did not count them; there were a good many; I dare say between thirty and forty.

Q. What passed?

A. I did not stop; I was drinking a pint of beer in the house; a gentleman came and asked us to go up stairs; we went up stairs and he went down, and, as I was going down stairs, a man in coloured clothes, who looked like a tradesman, followed me, and asked me to sign a paper.

Q. Who was he?

A. I do not know; I thought it was the last man when the Prisoners were here, the night we were here, but I do not know positively.

Peter Pollard sworn.

Examined by Mr. Wood.

Q. Did you ever go to the Oakley Arms?

A. Yes.

Q. Did any body ask you to go there?

A. Yes, Daniel Tyndall.

Q. Do you work with him?

A. Yes.

Q. What is he?

A. A carpenter.

Q. Were you there more than once?

A. No.

Q. When was that?

A. On the 16th of November last.

Q. You were there when the Prisoners were apprehended?

A. Yes.

Q. Was Tyndall your own master?

A. Yes.

John Emblin sworn.

Examined by Mr. Garrow.

Q. What are you by business?

A. A watch maker.

Q. Where do you reside?

A. At Vauxhall.

Q. You were one of the persons found at the Oakley Arms on the 16th of November?

A. Yes.

Q. Who was the person who first intimated to you that there were meetings at that place?

A. A man of the name of Lander.

Q. How long ago is it since he first gave you the intimation?

A. As near as I can recollect, it was about four weeks before I was apprehended at the Oakley Arms. I cannot speak with particularity to the day.

Q. What did he say to you?

A. He asked me if I had heard any news. I told him no: he said "*there was something very particular on the carpet.*" He asked me whether I had heard of any Society forming. I told him no; I thought they were all done with; he told me, no: *that there was a party forming stronger than had ever been yet; and that they looked up to Colonel Despard as their head.*

Q. After this intimation from Lander, did you see a person of the name of Broughton?

A. Yes.

Q. How long might that be before the 16th of November?

A. I frequently saw Broughton and Lander in the interim.

Q. When was the first meeting at which you saw Broughton after this intimation from Lander?

A. I cannot tell the first, but to the best of my recollection, it was on a Sunday.

Q. What did Broughton say?

A. I and Lander were talking together, and Brough-

ton came up. I objected to the plan of the thing, and he flew in a passion and seemed confident of success.

Q. What did you object to?

A. To the plan.

Q. The plan of what?

A. The plan for overturning the present government. Broughton called them *the Man Eaters.*

Q. You objected to this plan, and Broughton flew in a passion, and spoke with certainty of success?

A. Yes.

Q Did they, or either of them, invite you to attend the meetings of this Society?

A. Broughton has frequently.

Q. Did you at first assent to his proposal?

A. I told him at first I could not; for I had my family to attend to, and they took up all my attention.

Q. Did you tell him that at first, or upon repeated applications?

A. On repeated applications, the last time but one that he called at my house I was out, and he left word with my wife.

Q. Did he at any of those times when he was pressing you to attend the meetings of the Society, produce to you any papers?

A. Yes.

Q. For what purpose did he describe them to be?

A. He described them to be tickets; but they were about the sixth part of a sheet of writing-paper, badly printed.

Q. Did you read it?

A. Yes.

Q. Did you give it back again?

A. No; he said "it was for a *security to know their friends by*;" and at the same time he told me, that "when the attack *was made, that all who were not of their principles would be put to death.*"

Q. Be so good as look at the paper that will be shewn to you, and see whether it was similar to that? *(the witness looks at the paper.)*

A. It began, I *A. B.*—this is the language of the paper I had.

Q. Give me that which you say is the language.

A. They were all the same; but this was the language pretty much.

Q. Do you remember on Friday the 12th of November, being at the Queen's Arms, at Vauxhall?

A. Perfectly well.

Q. Who were you with there?

A. With John Hayes.

Q. Do you know a person of the name of Graham?

A. Yes.

Q. Was he with you there?

A. Yes.

Q. Whilst Graham and you were together, did Broughton come there?

A. Yes; he came and tapped Graham on the shoulder, and asked him how he did. Broughton was sitting by the fire, and I was in a back box; he then saw me, and came and sat down and drank with me; he asked me to go to the Flying Horse; he said "*there would be such a nice man there, he was sure I should like his company.*"

Q. The Flying Horse at Newington?

A. Yes.

Q. Did you at first agree to go?

A. No; I asked him who this man was; he said "*it was Colonel Despard.*"

Q. Before you agreed to go with him, had he told you of any thing that was to be done on any day nearly arrived?

A. He said "*the day was fixed for the attack to be made when the King went to the House. The King will be stopped when he goes to the House, and the business will be settled.*"

Q. Did he say any thing more of what would be done that day besides stopping the King, and settling the business?

A. I believe he said, "*The Tower was to be taken that day,*" but I cannot positively charge my memory.

Q. After he had told you who this fine gentleman was, did you go out of the public house?

A. Broughton said, *he must go, because the Colonel was punctual to his time,* and he had already exceeded the time; and he went out and took Graham out with him. I made an excuse to go out, and I heard him persuading Graham to go; they seemed to turn towards the house. Again I met them, and said, if you will go, Mr. Graham, I will.

Q. Did you return again to the house?

A. We did; but Broughton went. Graham agreed to go, and said he would be there in an hour.

Q. Did Graham make any observation on that?

A. He said, "*I did not know that you were of those sentiments.*"

Q. What answer did you make?

A. I replied, no more I a'n't; only, I have a mind to go and see the humour of it. He said, so have I.

Q. Did you afterwards go with Graham to the Flying Horse?

A. Yes.

Q. Whom did you find when you came there?

A. Colonel Despard.

Q. Is that the person?

A. Yes, that is he.

Q. Whom did you find with him?

A. Broughton, Windsor, and Smith.

Q. Where were they?

A. They were sitting in a room on the left hand; in the back parlour below stairs—a small back room.

Q. Then Windsor was there before you came in?

A. Yes; we were the last two that did go in.

Q. When you went in, how did you find them engaged?

A. In conversation.

Q. What passed on your going into the room?

A. Broughton desired us to come and sit down. Graham took a chair and placed himself by the side of Colonel Despard, and I sat down next to Graham.

Q. Was this the first time of your being introduced to Colonel Despard?

A. It was the first time of my being introduced to those meetings.

Q. What was Windsor conversing about when you went in?

A. The form of passing the keys at the Tower.

Q. The keys passing the sentry?

A. Yes.

Q. What did he say about that form?

A. He said, "*that it had been customary when the constable passed the keys; when the keys passed the sentry for the constable to say, God bless the King, and Queen Charlotte; and then the sentry was to answer, Amen: that that was the ancient ceremony, but it had been laid aside for some weeks, except in one instance, and the man had been scouted for using the ceremony,*"

Q. Did you ask any question of Broughton as to Colonel Despard?

A. Yes; I asked him who that gentleman was.

Q. You did not at that time know Colonel Despard?

A. No; Broughton told me who he was. I thought the Colonel heard me. I considered it as a piece of rudeness, Broughton's leaning across him to whisper to me. I said, Sir, I beg your pardon, I had not the pleasure of knowing you before; but I have read of you in the Cambridge Paper. The conversation turned on the wet docks, between Windsor and others. I cannot tell you the exact chain of conversation.

Q. Some complaint of the guards being employed at the Wet Docks?

A. Yes; but after some time I asked Colonel Despard whether there was any particular business in hand, and what he thought of it; he said, "*nothing particular; only it seems the wish of a great many people, that an effort should be made on Tuesday week next to recover some of those liberties which we have lost, and the day is fixed for Tuesday week next.*"

Q. Did you put any question on that?

A. I asked him if he had any ground or sufficient force to go upon; he said, "*Yes, a very considerable*

force indeed; leastwise I can only say, if the people come forward as I have been given reason to understand, we have great numbers of the army; and there are great numbers in all parts of the Kingdom, in Birmingham, Manchester, Leeds, Sheffield, Yorkshire." I do not say that I enumerate the places exactly, as they were enumerated to me, but he mentioned all those places.

Q. Do any more places occur to you?

A. He said, "*And here, in and round London, the people are every where ripe.*" And I recollect he mentioned Chatham; he said "*that he had been engaged in this business for these two years.*" I am not positive whether it was *these two years*, or *more than two years*, but it was one or the other. "*I have travelled above twenty miles to-day,*" meaning the day on which I saw him; I understood him so; "*and the people wherever I have been are every where ripe, and anxious for the moment of attack.*" I recollect at the same place, I cannot charge my memory with the exact order of the conversation during that evening; but I recollect asking him if he had any regular organization; he said, "*No; a regular organization would be a moral impossibility.*"

Q. Why?

A. He did not exactly state the reason why; but he said "*it would be too much connected with Government; under the eye of Government; but in the country it was more general.*"

Q. What organization was it then, that would be improper?

A. He did not give the reason, or state that. I asked him whether the attack was to be made in London and the country on one and the same day. The exact form of the question I cannot recollect; it strikes me, whether I have given you that quite correct, but that is the substance; he said, "*No, by no means, that would be highly improper; but that it would be a signal for the country the stopping the mails and stage coaches.*" During the evening, Graham clinched his right hand and swore with an oath,

"*You will do no good unless you secure the whole of the family.*" Broughton, in a sort of knowing, low, vulgar way, shook his head, and said "*that is easy enough done; that is already settled.*" I asked him how; he said, "*take and shoot two of the horses, and then*" he swore "*the carriage must stop.*"

Q. What carriage were you speaking of?

A. The King's carriage, I understood so, "*and then seize him directly.*"

Q. On what occasion was this to be done?

A. When the King should return from the Parliament House. I replied, do you consider that there are horsemen riding close by the carriage, with their horses heads almost in the window; and any person attempting such a thing would be cut to pieces, then who would do it.

Q. Who would execute so dangerous a thing?

A. Yes, that was my meaning; Colonel Despard replied, "*I would do it with my own hand.*"

Q. Are you sure of that expression?

A. I am sure of that; I should be sorry to say it if I was not. I cannot say that my memory charges me with any more against the prisoner at that meeting; however painful it is to me to stand here, yet I consider it my duty to speak the truth, and I would not wish intentionally to keep any thing back.

Q. Do you remember any expression respecting having weighed circumstances?

A. I recollect Colonel Despard saying, "*I have weighed this matter well, and my heart is callous.*"

Q. Are you perfectly sure, that in some part of the conversation he used that expression?

A. Yes, I am sure he did; I rather think it was after saying he would do it with his own hand; but I do not say upon my oath whether it was then or not.

Q. But are you positively certain that the expression was used by him?

A. Yes, I am positive.

Q. Were any objections made by any of the company as to the Tower and the Bank?

A. Yes, I can only tell you a conversation passed as to seizing the Bank; so far I recollect, but the exact words I cannot tell. Then it was agreed the Bank should be seized, and the Tower should be taken. Respecting the Bank, I particularly recollect they said, "*the arms there had been rendered useless*;" and to the best of my recollection, "*that they were about six hundred stand in number.*"

Q. Do you recollect the particular mode in which it was stated that they had been made useless?

A. By some part being taken off; but I cannot charge my memory what part.

Q. Do you happen to recollect who said that?

A. I think it was the Colonel.

Q. If I understand you right, whatever was said there, whether uttered by him or not, was in his hearing?

A. Most assuredly so, but I cannot say that every person in company heard every thing that was uttered, because two or three might be speaking at once, but I am confident he heard the greatest part, for I chiefly engrossed the conversation while I was there, never having seen him before; it was my curiosity that has brought me into the situation in which I now stand here, and I begged his pardon two or three times for my inquisitiveness and impertinence.

Q. Do you recollect the particulars of the conversation about seizing the Tower?

A. No, but I know it was made a matter of confident success. I recollect one person, which was Windsor, said, "*Give me a hundred men, and I will take the Tower myself.*"

Q. In the presence of Colonel Despard?

A. Yes.

Q. And it was talked of as a matter in which they were confident of success?

A. Yes.

Q. Did Colonel Despard continue there the whole time you did?

A. No, he went away and left us there.

Q. Did he go alone?

A. Yes.

Q. You continued there for some time afterwards, and then went away?

A. Yes.

Q. Do you remember seeing the servant of the house?

A. Yes: I hope you will not think of mentioning what was said jocosely; there is no harm attaches to it.

Q. You gave her something with an observation?

A. I gave something: they would not let me pay; I did not like to appear behind hand with any of them, and I took something out of my pocket and gave her.

Q. You were not permitted to pay any thing?

A. Yes, I did in the room, but not at the bar; the girl seemed awkward at taking it, and I said, never mind, I will have a kiss the next time. It was spoke only jocosely?

Q. Did you see any thing more of Colonel Despard, till you were at the Oakley Arms?

A. No.

Q. At what time did you go to the Oakley Arms on the evening on which you were apprehended?

A. I think about eight o'clock.

Q. Was that a meeting held by appointment?

A. I do not know; I did not expect to meet any body there scarcely.

Q. Who invited you?

A. Lander in the day time had been talking of the attack on the Tower, and he wished to know "*whether it would not be prudent to have a division to march from the Tower to New-street.*"

Q. New-street, Bishopsgate?

A. Yes; "*and there take the arms belonging to the East India Company.*"

Q. Who was he talking with when he said that?

A. With me; "*and then from there to go to the Artillery Ground, where they would meet with more arms, and also pieces of artillery, and then from there, if they could be spared, to come forward and assist in the attack on St. James's, and if they had a sufficient force at the taking of the Tower, he also*

proposed that another detachment should go another way through the Borough, and through the New Cut, and so to the Parliament House, to assist those that would be there;" and he said, "*he thought it would be proper to have couriers to ride backwards and forwards, and give an account of the situation and success of the army;*" and, if I understood him right, "*he had been on the Sunday previous to that to engage a house, where,*" I understood him, "*he was to sit and receive the reports of those couriers or aid de camps,*" or whatever they might be termed, which house, to the best of my recollection, was the sign of the Angel, in Cecil's-court, St. Martin's-lane; he then asked me to write this down.

Q. This direction?

A. No, this plan. I refused; he seemed to look at me with astonishment; for you are to understand I never was sworn in the society, and they seemed to look with a jealous eye upon me sometimes.

Q. And he appeared surprised?

A. Yes: I then said, if you please I will go with you to the Colonel, if you can introduce me to him, and see what he says about it; but Graham had called upon me on the Monday, and had had a conversation, and I think Lander at this conversation with Graham, which you do not perhaps judge it necessary to enter into—

Q. It is sufficient for the present that you had a conversation with Graham which you reported to Lander. What did he say as to introducing you to Colonel Despard?

A. He said yes, he would do it this evening. That evening, as I was going home with a clock, I met Broughton near the turnpike, he then said, "*I understand you are coming down to-night.*"

Q. Had you not told him so yourself?

A. No: "*do,*" said he, "*but do not be long first.*" I said I cannot come till I have put my clock up. He and I parted. In going on I saw Lander shutting up his shop: I went past his house to where I was going with the clock: he asked me if I was ready, I

told him no, I was obliged to go home with that clock; he said, how long should I be; I said, about a quarter of an hour; he said, if I would not be longer he would wait for me, but he was in a hurry, as he had to go to town; when I returned he was gone, and I went to the Oakley Arms by myself.

Q. Who had given you the Oakley Arms as the place to which you were to go?

A. Broughton and Lander too.

Q. At what time did you arrive there?

A. I am not quite sure; I think I might have been in about twenty minutes when the officers came in.

Q. Had you been at that house before?

A. Yes; but not to hold any of those meetings. I should have mentioned, that going home from the Flying Horse on Friday night————

Mr. Garrow. That does not appear to me to be material. You went to the Oakley Arms about twenty minutes before the officers arrived?

A. Yes; I went into the parlour; I saw some persons that appeared to be strangers; they asked, who do you want? I said Mr. Broughton or Russel; they said you will find them up stairs. I went up and went in; Broughton saw me come in, and called me to come and sit down by him.

Q. What number of persons were there?

A. I judged there must be above twenty.

Q. Did any come in after you?

A. There were two came in, Smith and his journeyman, after I went.

Q. Among others, was Colonel Despard there?

A. Yes.

Q. On Broughton perceiving you, he desired you to take a seat by him?

A. Yes.

Q. How were the parties engaged when you came into the room?

A. In a promiscuous conversation one with another.

Q. Was Colonel Despard sitting or standing?

A. I believe standing, to the best of my recollection, speaking to John Francis.

Q. What happened after you came in before the officers arrived?

A. I had not been long seated before Broughton said, "*My boy, we have the completest plan in the world, which will do the business without any trouble.*" I asked him what was that. He said, "*to load the great gun in the park with four balls or chain shot, and fire it at his Majesty as he returns from the house.*" Then, with a kind of a sneer, said, "*he would be damned if that did not send them to hell,*" and so on.

Q. You must repeat the expression however disagreeable?

A. I confess the expression shocked me much, and I said, Good God, do you consider how many people will be in the park that day, and how many lives you will take away. He said, "*then damn them, let them get out of the way;*" then he said, "*it would play hell with the houses at the Treasury, and round about there.*" Some person in company said that the cannon might be too low; another said it might be easily raised an inch; some person said, but if it misses his Majesty, Broughton replied, "*then damn him, we must man-handle him.*" I do not think I am giving you the evidence so correct; I rather think I had a conversation with the Colonel before this.

Q. Do you mean to alter the expressions you have used?

A. No; only I may have misplaced it.

Q. Consider before you go on, whether the conversation with Colonel Despard was the first, or this?

A. I am divided in my mind about it, but to the best of my recollection, I had had a conversation with the Colonel before this.

Q. How near was the Colonel to you and Broughton when you were holding this extraordinary conversation?

A. As near as you and I are I suppose, but I do not pretend to say that the Colonel heard it.

Q. Will you state to us the substance of the conversation you had had with the Colonel, as you believe, previous to this?

A. I asked Broughton whether I might speak to the Colonel.

Q. This, according to your present impression, was said after you came in?

A. Yes, I judge it was. I said to the Colonel, Sir, you were speaking of taking the Tower.

Q. Alluding to the former conversation you had had?

A. Yes; at the Flying Horse. Lander said, "*would it not be proper to have a division to go from there?*"

Q. You then repeated Lander's plan, as he had mentioned it?

A. Yes.

Q. The plan which Lander wished you to write down?

A. Yes; he objected to it.

Q. Did you conclude it with any observation of your own?

A. I do not believe I did. He said he did not approve of it. I do not remember the exact reply, but that "*he did not approve of it. For why, he believed that one half of the Company's men were our friends already;*" but he says, "*my good Sir, we are not sure that we can have the Tower, but if we have, we have every thing, for there are arms sufficient to arm so many men.*" I cannot say how many, but it was a great number seemingly, and more than would be wanted.

Q. He mentioned a number which you do not recollect?

A. Yes; more arms, seemingly, than they should want. He said, "*to go to the Artillery Ground would be useless; for what purpose would it answer; it was to form a sort of garrison to annoy the associations.*"

Q. You stated that you understood that was Lander's plan?

A. Yes; he said, "*No; St. Paul's would be a great deal better place.*" I cannot tell you exactly the terms. After we had had that conversation, the Colonel replied, "*If we have the Tower and the Bank,*

we have every thing." I recollect I told him that Graham had said, that the Bank should not be mentioned. Do you think, Sir, it would be proper to meddle with the Bank? He said, "*Surely the Bank ought to be almost the first consideration, for if we have the Bank and the Tower, we have every thing: that he could from the Tower, if necessary, burn the town, and batter it to pieces.*"

Q. Do you recollect any thing more?

A. Yes; I overheard some person say something about destroying the Telegraph. I spoke to the Colonel, and said, Sir, they seem to think of destroying the Telegraph. Do you suppose that would be necessary. He replied, "*Surely, for it is a thing that would be of no service to us, but of vast importance to our enemies.*" I cannot say that my memory charges me any further.

Q. Soon after these conversations, the police officers came in, and you were secured?

A. Yes.

Q. You mentioned in the early part of your evidence, seeing Windsor at the Flying Horse?

A. Yes.

Q. Was he known to you, or was he a stranger before that?

A. A total stranger to me.

John Emblin,

Cross-examined by Mr. Serjeant Best.

Q. Where do you come from, here?

A. From Whitney, in Oxfordshire.

Q. Are you in custody?

A. Yes.

Q. You were brought up here in custody, to give evidence?

A. Yes.

Q. Have you been in custody ever since?

A. Yes.

Mr. Garrow. Let us understand on what charge; you

were secured that evening, and have been in custody on this charge ever since?

A. Yes.

Mary Plowman sworn,

Examined by Mr. Fielding.

Q. You live at Newington?

A. Yes.

Q. Do you keep the Flying Horse there?

A. Yes.

Q. Do you remember hearing of the people being apprehended at the Oakley Arms?

A. Yes.

Q. Are you enabled to carry back your memory from that circumstance, so as to relate what passed in your house, two or three days before that?

A. There were two or three gentlemen there a few days before.

Q. On the 12th of November, a Friday?

A. I cannot positively say to the day.

Q. What rooms does your house consist of below?

A. The tap-room, a small parlour, a kitchen, and the bar.

Q. Do you know whether that parlour had any persons in it that evening?

A. There were to the number of about six, I think, went in that night.

Q. On that evening, at what time did the first person go in that you noticed?

A. A little before eight.

Q. How did they get in?

A. They went in at the street door, and through a passage.

Q. Did they go immediately through the tap-room into the parlour, without taking notice of you?

A. I was working in the back room when they came in.

Q. How many were there?

A. Two.

Q. How were they dressed?

A. One, I can tell, was dressed in a dark brown great coat, and an umbrella in his hand.

Q. Did they go into the parlour?

A. Into the back room, which is called the kitchen.

Q. Did any other persons come in, that made their way towards the parlour?

A. Yes; there were to the number of about four came in after that; I believe they all went into the back room.

Q. What sort of a room was it they went into?

A. A kind of kitchen, which we call the back parlour.

Q. Was, or was not, the door shut when they were in?

A. Yes; and the curtains were drawn. They seemed very much in private.

Q. Did they draw the curtain, or was it drawn before they went in?

A. They drew it.

Q. Did you happen to be near this room, so as to overhear any thing said by them?

A. I was in the bar, leaning over the bar, and I heard one say, "*He had weighed every thing well within him, and God may know, his heart was callous.*"

Q. Do you happen to know a soldier of the name of Windsor?

A. Yes; he worked for one Mr. Broomfield; we served him with beer before this.

Q. Do you remember whether there were any persons there before Windsor's arrival?

A. Yes; there were two; they were in the tap-room; he asked whether any body had asked for him; there came two men more through the tap-room; he observed that the company was backwards, and joined them.

Q. Was your husband at home?

A. Yes; but he was out with his beer that evening.

Q. How was the reckoning paid, as to what was had in the parlour?

A. I cannot say how it was paid; the servant went in and took the money.

Q. Do you recollect their leaving your house?

A. Yes; it was a little after eleven o'clock.

Q. Did any thing pass between any of them and your servant at the bar?

A. They came to the bar and had four glasses of gin and a glass of rum, which came to ninepence. I gave threepence change to a little man; he gave it to my maid, and turned and told her he would have a kiss for it next time he came. There was a tall swarthy man desired I might not give him wash; Windsor answered and said, what he had would be good here.

Q. Do you recollect how many there were in number that were at your bar when this passed?

A. Five.

Q. One was gone?

A. Yes.

Q. Can you tell whether the person who had left the company, was the person who had the umbrella?

A. Yes; it was he that was gone.

Lord Ellenborough. Where were you sitting when you heard those words?

A. In the bar.

Q. Were you at such a distance that you could hear a person in the back parlour, if he was speaking in an ordinary voice?

A. If he spoke slow.

Q. Was he speaking very loud?

A. No.

Q. How far were you from it?

A. A very small distance; it is a wainscoat that parts that room.

Q. As far as you are from me?

A. Thereabouts.

Sir Richard Ford sworn.

Examined by Mr. Solicitor-General.

Q. Did you take the examination of the witness Windsor?

A. When he was examined at the Secretary of State's Office, I wrote down that examination.

Q. Did you, in consequence of that examination, call before you any soldier?

A. Either in consequence of that examination, or other communications which Windsor made verbally at that time, some soldiers were examined.

Q. Were any of the soldiers who have been examined to day, taken up?

A. They were sent for and examined; I believe not taken up.

Q. Blades and William Francis?

A. Yes.

[*The end of the evidence for the Crown.*]

Lord Ellenborough. Prisoner, would you wish to say any thing for yourself, or leave it to your Counsel?

Prisoner. I leave it to my Counsel.

Mr. Serjeant Best.

May it please your Lordship,

Gentlemen of the Jury,

It now becomes my duty to address you in behalf of the Gentleman at the bar; and you will easily conceive it to be one of the most anxious and painful duties that can be cast upon any man; for be the case of the Prisoner what it may, when it is recollected that the issue of it is his life with honour, or his death with ignominy; and that duty exacts from me, that now, when I am exhausted with fatigue, and embarrassed by the novelty of the situation in which I am placed, I should, with a judgment equal to the importance of the choice, select those features of it that are to form the grounds upon which he expects you shall presently deliver him; and to lay before you these topics with that degree of clearness which is necessary to give them their proper effect. You will see that I am loaded with a dreadful

responsibility, sufficient to awaken the fears and almost to destroy the energy of the stoutest man.

Gentlemen, I do assure you, that if I did not feel I was standing before a British Court of Justice, where I have all those peculiar advantages which the learned Attorney General has enumerated; the advantage of being assisted by the noble and learned Judge, who, by his office, is of Counsel for the Prisoner upon this occasion, and the advantage of knowing that he who represents the unfortunate is sure to receive from a British Jury, who know that it is the just principle of the law they are to administer, that justice is to be tempered with mercy, I should be utterly incapable of addressing you upon this most momentous occasion.

The learned Attorney General, with great propriety, has stated to you, that it is a principle uniformly acted upon in the administration of criminal justice, that the greater the crime is, which is imputed to the Prisoner, the greater should be the degree of caution which a Jury should exercise before they deliver him, who is charged with that crime, to the vengeance which necessarily awaits him in case they should say that he is guilty. Gentlemen, after what his candour has admitted, it is not necessary that I should press the observance of this principle upon you. I will only say, it has the sanction both of practical and theoretical learning; it has been repeated by learned Judges as constantly as cases for its application have occurred, and is to be found in the valuable works of the most able and experienced writers that have written upon this subject. If this principle be necessary to regulate the judgment and to check the prejudice which a detestation of guilt is likely to excite in the most honourable and humane minds, and which is apt to confound the distinction between accusation and conviction in ordinary crimes, where you are only affected by compassion for those who have been the objects of them, and a sense of the dangerous tendency of allowing criminal actions to pass unpunished, how much more so must it be in the case of High Treason, in which you are liable to be impressed with a sense of direct

and immediate interest; an interest of the most powerful kind, that which arises from fear for your own safety. For what idea does the charge of High Treason convey? that the accused has aimed against the life of the monarch we love, with whose existence and welfare we feel our own inseparably connected; at the destruction of a Constitution which we consider to be the glory and happiness of our Country; and, at the subversion of laws by which we feel ourselves protected. It must be therefore the misfortune of one who is to be tried for this crime, that his Jury cannot feel devoid of any feeling of interest. In such a case, common caution against prejudice is not sufficient. You must forget all you have heard on this subject, except from the witnesses. You must abstract yourselves from your Country, upon which a traitorous attack has been supposed to be made; and as your sole aim is to do justice, you must guard against any presumption of guilt, unless it be clearly raised by the evidence, by a jealousy not only of those who prosecute, but even of yourselves.

The Attorney General stated some advantages which, according to the English law, a prisoner for Treason has when put upon his trial; and he alledged, that the known prejudice against him was one of the causes of these advantages being allowed. I am perfectly persuaded that it is one of the causes. Those who planned that great and glorious scheme of liberty which was effected by the Revolution in this country, saw how absolutely necessary it was, where the state is the actual prosecutor, (differing from the common case, where the King prosecutes merely as trustee for the public) where the prosecution is to be supported by the weight of the law officers of the Crown, when the general prejudice that I have described co-operates with that weight, it is necessary a Prisoner should have more assistance in the defence he is to make than in ordinary cases. I cannot help thinking this is one of the most beautiful parts of the Constitution of this Country. It has been said by those who have considered this subject, that there is nothing which so completely shews the existence of liberty in any Country,

as the fair mode of administering justice in cases where the State supports a prosecution against an individual. That part of the law of Treason that relates to the trial of a traitor shews to us the laudable anxiety of our ancestors, that those who are placed in the situation of the Prisoner should have a candid and dispassionate investigation of their cases. I believe no similar provision exists in any other part of the world; and I trust the statement of it will teach those, if there are any such misguided men in this Country, who wish to overturn its Constitution, that enthusiasm itself cannot imagine a motive for Treason. That if any thing like a state of liberty is to be attained, it exists in this Country, in which those who stand in the situation in which this unfortunate gentleman now stands, charged with an attempt to overturn all that is dear and valuable to us in the world, has such peculiar advantages; if instead of that dreadful crime which is imputed to this Gentleman, he had been charged with murder, I should not have had an opportunity of addressing you as I now have; but for the reasons I have stated, this Gentleman has that advantage, if, indeed, it be any advantage to him, when he has thought proper to select one so feeble as myself to address you upon this subject. If he had been tried for any other offence he could not have seen before his trial the charge intended to be made against him, but in this case he is allowed, and has received a copy of it. He could not have known the witnesses who were to prove the charge, or the Jury who were to decide his fate; but in this case he is entitled to and has received lists of both. Why do I make these observations? for the purpose of shewing, that those who have founded that liberty we now enjoy; for the purpose of shewing, that those who have created that jurisdiction under which we are now sitting, were satisfied of the truth of the observation which the Attorney General has made, that a person standing charged with High Treason is entitled to peculiar advantages on account of the prejudices that must exist in the mind of every one respecting a man circumstanced as he is circumstanced, for the reason I

stated before, that those who are placed in the situation of Jurors are in danger from the abhorrence they feel of the offence, of being satisfied without sufficient evidence of the guilt imputed, and thereby of delivering him over unjustly to judgment.

Gentlemen, having stated these observations, I am persuaded it will be unnecessary for me to desire you to do all that men can do to divest yourselves of that prejudice which you feel against a man in his situation, to do that which the Attorney General has emphatically and distinctly told you to do, that which the law of this country has told you to do, that, without which there can be no liberty existing in this country; that is, to presume him innocent till guilt is established in evidence; for, until his guilt be made out, not merely by vague and unconfirmed stories told by suspicious witnesses, but by that species of evidence which is required by Juries in cases of this sort, it is your bounden duty to presume him innocent.

Gentlemen, permit me now to call your attention to some few rules of evidence which have been wisely, by the law of the Country, adapted to criminal trials. Some of the rules are applicable to cases in general; but the first which I have occasion to mention, and in which I am persuaded I shall receive the sanction of the noble and learned Judge, for I cannot suppose you will give your verdict upon any speculative notions of mine, except as that speculation is confirmed by his Lordship; but I am persuaded the principle I am about to state is one by which the Judge will tell you you ought to guide yourselves in the determination of the question which will presently be submitted to you.

I perfectly agree with what was stated by the Attorney General that this is almost a question of fact; it is impossible for any man to argue—God forbid, that any man who wears the dress I now wear, should attempt to argue in this country, that if that which is laid in this indictment is made out by the proof adduced in support of it, that it does not in point of law amount to High Treason; the only question that will be for the consideration either of the Court or Jury

is, whether these different facts alledged upon this indictment are made out by clear and satisfactory evidence, or whether there is not a total absence of the best evidence the nature of the case would warrant, if the facts ever existed which have been laid before you.

It is a rule of law upon the subject of Treason, that the crime cannot be made out by mere words, but must be evinced by acts, deeds, or writings. That this is unquestionably the law, you have the direct authority of the Legislature delivered to you by the words of the act passed in the reign of his present Majesty, the 36 Geo. 3. cap. 7. and upon which are founded two counts of this indictment. It is there said, that the Treason must be made out by *printing or writing, or any other overt-act or deed.* You see, therefore, from this act, that the Treason charged, or whatever is alleged as Treason, is not allowed by law to be made out by any declaration that came from the mouth of the particular person charged. I do not mean when I make this observation, that the testimony of witnesses is not to be received; if that had been my opinion, I should long ago have been called upon to have objected to his Lordship, and to have insisted that a vast deal of what is about to be laid before the Jury cannot consistently with the rules of law be received. I do not mean to say the testimony of witnesses is not to be received; but, I mean to say, that it is not upon the parole testimony of witnesses only that a man is to be convicted; his guilt must be made out *by writing or by deed,* for it is upon that species of evidence alone that the law will, in cases of this sort, allow a man to be convicted of this crime. Why then, you will ask me, does the law allow the parole testimony of witnesses to be received, if upon such testimony he cannot be convicted? The law allows the parole testimony of witnesses, not for the purpose of making out the guilt of the offender, but for the purpose of explaining deeds, transactions in themselves inexplicable, not as proof itself, but as a commentary on the actual proof.

I am about to advert to a book which I shall pro-

bably be told is of no authority in this country; when I talk of authority, I mean not that sort of book one can cite in a Court of Justice with a view of binding the learned Judges who are to decide upon points of law, according to the authorities of learned English law-writers, but I cite it because this learned person has expressed my opinion upon the subject better than I can find words to do it myself; and I may say, without offence to any one, he has expressed the opinion of an English lawyer as clearly and accurately as any Judge can express it, and more ably than it has hitherto been done by any one. The book I allude to is the inestimable work of the President Montesquieu. Speaking of Treason, he says, "Nothing renders the crime of High Treason more arbitrary than declaring people guilty of it for indiscreet speeches. Speech is so subject to interpretation, there is so great a difference between indiscretion and malice, and there is often so little of the latter in the freedom of expression, that the law can hardly subject people to a capital punishment for words, unless it expressly declares what words they are." He continues, "Words do not constitute an Overt-act." Nothing can so clearly shew the wisdom of the law of England upon this point, as that a foreign writer, not influenced by any knowledge of our municipal rules, but pursuing abstract truth, should declare that to be right on the universal principles of wisdom and justice which these laws have established. "They remain only in idea when considered by themselves; they have generally no determinate signification, for this depends upon the tone in which they are uttered. It frequently happens that in repeating the same words they have not the same signification; this depends on their connexion with other things, and sometimes more is meant by silence than by any expression whatever, since there can be nothing so equivocal and ambiguous. If this is so, how is it possible to convert words into a crime of High Treason; wherever this law is established, there is an end not only of liberty, but even of its very shadow." Gentlemen, there is no such law established in this Country, and liberty exists in as great,

if not in greater perfection here, than it exists in any other Country upon the face of the earth.

In another passage he says, "Overt-acts happen not every day; they are exposed to the eye of the public, and a false charge, with regard to matters of fact, may be easily detected; words carried into action assume the nature of that action. Thus a man who goes into a public market place to incite the subject to revolt incurs the guilt of High Treason, because the words are joined to the action and partake of its nature. It is not the words that are punished, but an action in which the words are employed; they do not become criminal but when they are joined to a criminal action. Every thing is confounded if words are construed into a capital crime."

Gentlemen, it is impossible that the idea of an English lawyer can be better expressed than it is here; permit me to shew you how extremely material this observation is; it says, if any fact be proved as evidence of the intention of the mind of the person from whom that fact proceeded; as if, for instance it should be shewn that a man went into a public market, and there did some act which amounted to High Treason, what would be the situation of the accused? that if he were charged wrongfully with it he might call five hundred witnesses who were all in the market, for the purpose of shewing that did not pass which all the witnesses had stated did pass. What is the situation of a man who, instead of being convicted upon this species of Overt-act, which occurs but seldom, and is capable of contradiction, is to be brought to his trial, and charged and convicted, not by acts, which he can contradict, but if he is to be brought to trial and punishment upon proof of conversations only in a private room, proved by the testimony of persons who are so infamous that no human being would give them credence, there is an end of liberty; indeed, if upon testimony like this a man is to be convicted of Treason, do not tell me the law of Treason is defined and rendered certain; do not tell me there is no constructive Treason in this Country; it is in vain to tell me, that

if whilst the law of Treason is fixed, the rules of evidence are so unfixed; if, whilst the law says you can convict only on Overt-acts, the existence of which may be ascertained or denied by credible proof, a man may be convicted, not upon Overt-acts, but merely upon the parole testimony of witnesses.

I am aware whilst I am arguing thus of what has been said upon this subject, that a meeting is an Overt-act. As, in the language of the book I have read, if I go to a market place to incite the people to rise, that is an Overt-act, and it may be said thus, Colonel Despard's going to meetings, for I cannot deny that he attended one or two, (I shall explain satisfactorily by-and-bye why he was there) is an Overt-act, and then coupling that circumstance with any declaration that he made use of there, the crime of Treason is complete. But with great submission to the Attorney General, this is entirely begging the question; for, before they can make out that attending a meeting is an Overt-act to convict him of High Treason, they must prove that it was a treasonable meeting which he attended; attending a meeting is an equivocal act, it may be innocent or may be guilty, something must be added to shew that such an attendance was an Overt-act of Treason. You will find presently, that you have no evidence from which a Jury can safely conclude, that any meeting which Colonel Despard ever attended, was a meeting for treasonable purposes; if that be so, his going to them cannot be considered as Overt-acts.

But it may be said there is a printed paper found in this case, and the Attorney General triumphantly challenged me to put an innocent interpretation on it. I think, if I were driven to it, I could perfectly explain this paper, but I do not choose to explain things that I am not called upon to explain; it is too late in the day, and we have had too much labour already in the course of it, to be disposed to discuss what we are not called upon to defend. I do not care whether that paper be treasonable or not; is it connected with Colonel Despard, except by the testimony of Francis, one

of the most infamous men alive? there is not an atom of evidence in the cause, except the evidence of Francis, to make that paper, whatever be the contents of it, affect the gentleman who now stands at the bar. I say, therefore, upon this subject, that the only evidence is, that he has attended one or two meetings, and there is only satisfactory evidence that he attended one meeting; namely, the meeting at which he was apprehended; for his attendance upon every other meeting is proved only by witnesses, whose testimony I shall comment upon presently; whose testimony I undertake to satisfy you, you must dismiss from your consideration, it being, as I will shew you, wholly unconfirmed; and there is not a man in this Court safe for his life, his honour, or his property, if a conviction is obtained on such testimony, not confirmed.

Gentlemen, let us contrast this case with other cases that have happened, and let us see what evidence has been produced upon other occasions, and then judge from a comparative view, whether this case is not mainly defective in necessary legal proof. I appeal to my Lord, rather than to you, on this point; for it cannot be supposed that you are deeply read in trials for Treason; but his Lordship knows all the cases that have been decided upon this subject; and I venture boldly to state to you, in his presence, that in no case since the Revolution, has there been a conviction on such evidence as has this day been adduced. In Sayer's case, which most resembles the present, what was done? did they content themselves with calling a man of the name of Leach, a person of the description of some we have had to-day, to swear, that Sayer attended meetings, and contrived at those meetings to overturn the Constitution of the Country? no such thing; they proved that arms were found; they proved, that in the hand-writing of Sayer there was a plan in which all who joined in that conspiracy engaged to act for the purpose of overturning the Constitution of the Country. They had Overt-acts there with a vengeance; arms were found; that is a circumstance which wants no explanation, but is so strong an inditia

of guilt, that it calls upon the Prisoner to give a satisfactory explanation how these arms came into his hands, or that one circumstance would be sufficient to decide his condemnation. I appeal to the noble Judge, whether any other case has occurred from the time of the Revolution down to the present time; for I speak of no cases before the Revolution, inasmuch as I can never consider the Constitution as settled before that time, or any thing as worthy to be called authority, when the Judges, from whom they proceeded, were not what they are now; they were then objects of suspicion, now of respect and veneration; they were not then that which they are now, thanks to the Family now upon the Throne, independent. I have selected, therefore, those precedents which have occurred since the æra in which those learned persons were placed in a situation in which they can, without any bias, discharge their important function; and I say with confidence, that no one solitary instance will be found. I challenge the Solicitor General to point out a single instance from the time I have mentioned, in which a man has been convicted of the crime of High Treason, merely by proving him at a meeting, without proving that any acts have been done, either at that meeting or elsewhere, which manifest a traiterous intention. I do not mean to say, that the traiterous intention must be followed by any act in pursuance of it to constitute Treason; the intention to act is sufficient, but that intention must be proved by some writing, or some clear, unequivocal preparatory step. The Jury will not believe the intention existed, unless they see some means provided for carrying it into execution. This observation applies with great force to the present case. I can conceive a case where Treason shall be complete, and yet it shall be difficult to find evidence of preparation. Where men have just begun to plot and contrive a Treason, which they know from its nature cannot be speedily executed, which must take time to ripen before it could be carried into effect; in that sort of case one cannot expect evidence of pre-

paration, because the season is not arrived when preparation is to begin.

According to the evidence you have before you to day, this was not that inchorate species of treason I have been describing, where there was yet a lapse of time before any preparation was to take place; but in fact, the account the witnesses have given, is, that the treason was not only conceived, but the traiterous scheme was completely planned, and on the very eve of being carried into execution. Indeed, the day fixed on for the achievement of a most important part of their object, is long since passed. The Tower was to be seized on the 6th of September, a fortress so strong and commanding, that Colonel Despard is stated by one of these miscreants, to have said he could burn the town from its guns, and yet no evidence is offered to shew that any one step was taken in furtherance of this plan. No attempt is proved to have been made, nor any reason given, why the projected attempt was not made.

Gentlemen, I put it to you, if any man alive could believe this, if, instead of being sworn to by the description of witnesses you have heard to day, it was attested by men of the highest credit, would you not pause and say, some strange delusion must have got hold of these men's minds. What you have stated, is so contrary to every principle of probability, that we can never be induced to believe it. Our own senses negative the evidence. Events must be preceded by adequate causes, the immediate occurrence of wonderful events, are here said to have been contemplated, and not the least cause for them is shewn.

Gentlemen, I have shewn you there were no deeds of preparation; I have shewn there are no writings, the possession or knowledge of which, is brought home to Colonel Despard. But it may be said, Colonel Despard was so cautious and wary a man, that he would take care that that species of evidence should not be found upon his person. Those who are to support a prosecution of this sort, must not be

inconsistent. Colonel Despard cannot be represented in the same breath, as a cautious and an incautious man; it is impossible that the Attorney-General could open this as a scheme likely to be attended with success. What does the very undertaking then prove? Wild and extravagant folly, wholly inconsistent with any thing like caution. But let us watch him in the progress of the plan. The witnesses say that this cautious man drew up writings and plans, though none were found upon him, and that he was so extremely incautious, that he was talking to every man he happened to light upon in his road, upon this very scheme, and disclosing every secret he had upon the subject, not only to those whom he did not know would concur in his measures, but to those who expressed their decided disapprobation of them. How can you reconcile this conduct, and the existence of treasonable plans drawn by him with the circumstance that not one treasonable paper should ever be found upon the person of this gentleman, or in any plan immediately and necessarily connected with him.

Gentlemen, I come now to a topic, which I think, forms the most important of any one I shall have to trouble you with, and that is, that it is a rule of evidence, not merely applicable to the case of Treason, but to every other crime upon which you, in a criminal Court of Justice, can be called upon to decide, that the case shall be made out by credible witnesses. It is necessary I should explain my meaning upon that subject. I know it may be put to me, do you mean to say that such witnesses, as accomplices, are not to be called. I mean to say no such thing. I say, accomplices may be called. I say, credit may be given them to a certain extent, and I will state the line which I think, bounds the extent of their credit. An accomplice should be given credit to for an explanation of a transaction which has been shewn to be criminal by other witnesses. But his evidence ought not to be regarded, unless a complete crime is proved by other witnesses. Why then, you will ask me, is an accomplice to be received at all? I can easily tell you, that the testimony of an accomplice is to be re-

ceived for the purpose of satisfying a Jury, who, perhaps, would not be disposed to go the length of finding the party guilty, if some of the circumstances that would be sufficient to make out a complete case of guilt, have not that sort of explanation an accomplice is capable of giving them. If you go further than this, and allow an accomplice to prove a case of guilt, which is independent of the evidence of an accomplice, a perfectly innocent case, you put every man in the hands of an accomplice, and enable him at any time, to destroy most effectually, the honour, character, and life, of any one person, whose destruction he happens to feel an interest in working.

The Attorney-General has stated a case to me for the illustration of this doctrine. Suppose, says he, one had distinct evidence, that a house had been robbed, that two persons who had stolen the goods, were seen in company with a silversmith, and that they were talking together upon the circumstances of the robbery, and then one of these persons should be called as an accessary, who should prove the burglary against the three. I should think that an extremely suspicious case, but I should doubt whether a Jury would be disposed to convict, unless you could trace some part of the property into the hands of the silversmith; and then, with deference to the Attorney General, instead of proving the case of burglary, it would rather prove the silversmith accessary to the offence, than a principal felon; and to prove him such an accomplice, there are inditia of guilt, independent of the testimony of the accomplice. The circumstance of his conversing with them, respecting an article which he is supposed to deal in, would require explanation from him. Besides, the Attorney General supposes the burglary to be distinctly proved by other witnesses.

But I will put another case. Suppose it happened to any one of you, to have the misfortune to be seen travelling along a road at the time when a murder was committed by two persons; those two persons are observed to go in that direction of the road in which

you are travelling. They separate from each other, and one of them joins you on the road, and is afterwards taken. Upon his apprehension, he offers to turn King's evidence, as such a witness is called. To save himself in this manner, he must make a charge against somebody, and that somebody must be one who can be apprehended, and with respect to whom his charge is capable of confirmation. He will not accuse his accomplice, because he knowing his guilt, will avoid apprehension by flight or concealment of his person; but he will allege that you are the partner of his guilt, knowing that you, not conscious of your situation, will be easily taken, and that his story respecting you, will be confirmed. Here then is a case that shows how compatible circumstances of extreme suspicion, are with perfect innocence, a case that shows that the confirmation that must be required to give credence to an accomplice, must be in some fact that raises a positive inference of unequivocal guilt. In this case it is clear you would be perfectly innocent, and yet the accomplice would have confirmation equally as strong as any thing proved to night; that you were seen passing along the road at the time when the murder was committed, is surely as strong as that you happened to be in the same room in a public house, with a man who had a treasonable card in his pocket. That is the very reason why the accomplice would describe you as being the person who was concerned with him in the commission of the murder. It would not answer his purpose, to name an indifferent person who had not been near the spot, because he would not entitle himself to that discharge, which he is entitled to upon telling that sort of story, which having the appearance of truth about it, might induce a Jury to believe that what he tells is true; it is necessary for him to fasten on some circumstance, to give a degree of probability to it; but if this circumstance is sufficient to convict, where is our security, because there is not one of us that may not be placed in the situation I am describing, and

be innocently condemned to an ignominious death, upon such testimony.

What then do I require? Rules are not made so much for the punishing of those that are suspected of guilt, as for the purpose of protecting those known to be innocent. Let us so act in Courts of Justice, as that, whether we convict the guilty or not, we shall be secure to save the innocent, for it is the maxim of the law, "that it is better that ninety-nine guilty persons escape, than one innocent person should suffer." This being the view of the law, let us see how this rule can be safely applied. I say it can be safely applied only in this way, that the testimony of an accomplice shall not be let in, but as explanatory of the guilt, after a clear case of guilt has been established by the evidence of other persons, and if this is the rule, see how it bears upon the case, before you let me desire you to review your notes, to ask yourselves whether one tittle of evidence to affect the gentleman who now stands before you, has been proved in this case, except by the evidence of accomplices. If I do not extremely deceive myself, unless his being present at the meeting at the Oakley Arms is sufficient to prove he is guilty, there is no other circumstance but what comes from accomplices. If this be so, it is not the cause of Colonel Despard I am pleading before you; it is the cause of every Englishman; it is the cause of the English law; it is the cause of English liberty; for English liberty consists, after all, in protection against foul charges in Courts of Justice. If that which I state is a rule essential to the protection of an innocent man, that may be brought to the Bar, I am not urging a rule for the sake of this gentleman, but one of which, any one of you, or the most eminent person in Court, may one day need the protection of. Gentlemen, it is one of the advantages of that tribunal I have now the honour of addressing, that you are, after discharging the important function now cast upon you, to be reduced again to the common situation of subjects of this country, and be subjected to those casualties to which all are liable. Our security is,

that being tried by men of the same condition with ourselves, they cannot fail to have that proper sympathy, which will make them feel the necessity of acting upon a rule well calculated for the protection of innocence, when it happens to be invaded by the attempts of infamous and designing men.

I may however be told, that though it must be admitted to me, for it certainly must, that there are only four persons, namely, Windsor, Francis, Blades, and Emblin, who at all affect Colonel Despard in this transaction; and although not one of these persons standing alone, would be entitled to credit, yet the concurrent testimony of these four persons, establish a case, which the individual testimony of each standing separately, could not accomplish. I should feel certainly, the strength of the observations the Solicitor-General will presently make upon the effect of concurrent testimony in many cases, but it appears to me, that this is one of these species of cases to which observations of that sort cannot be applied. I am fully aware, that if witnesses, who are brought from distant quarters, tell a story in which they all agree, it carries with it a striking appearance of truth, because it is scarcely possible that a coincidence in all respects in the circumstances could exist, unless that story were true.

But, Gentlemen, this observation which has been constantly made upon concurrent testimony, loses all its effect when it is applied to the case of conspiracy; for if men conspire to fasten a crime about the neck of others, they will take care that all their stories shall agree. The moment, therefore, it is established that there was a conspiracy, the inference arising from correspondence and testimony is refuted, for it is the nature of a conspiracy, that the testimony should be consistent. If any three or four persons were to set about to charge any offence against any particular man, they would take pains to concert together, that the story each tells, should correspond with that of the other. Then I put the question: do you believe there exists a conspiracy, for if you do, if the story

is told by a hundred, it is the same thing as if told by one. For by putting one broken reed to another, you do not give any greater strength by the union? That the transaction which those witnesses have been embarked in, is an infamous transaction, shew there is ground to presume they have concerted together for the purpose of charging an offence against Colonel Despard, which belongs wholly to themselves, and there is an end of all their evidence. In the sequel of what I have to say, I think I shall prove that such a conspiracy does exist in this case.

Gentlemen, I come now to that which appears to me to be a ground which is decisive of the present case. We have heard witness after witness, telling a tale which really freezes my blood, and so benumbs the faculties of my mind, that I am deprived of the power of rescuing my client from the dangers with which they have surrounded him. In such a state, and when my own strength deserts me, it is a consolation that I can pray in aid for my client, the strength and authority of the noble and learned Judge.

It was said by his Lordship, in his address to the Grand Jury the other day, that it ought not to be said, that because a story was improbable, that it was to be rejected as unworthy of credit, but that they were to require stronger evidence than they would think necessary to satisfy them of the truth of it if it was consistent with probability. This was said to the Grand Jury, who are not to try, but to consider merely whether there was ground enough to put these men upon trial; but even to them, says the Judge, if the story be improbable, do not reject it immediately, but be more cautious about the proof by which it is to be established; and if its certainty is equal to counteract the inference arising from its improbability, find your bill, and put the men on their trial. If this caution was necessary for a Grand Jury, who are only to put them in a state of accusation, how much more necessary is it for you, who are finally to decide on their fate? No man has greater respect for the noble and learned Judge than I have, and that obser-

vation raised and encreased the respect I had for him, because it is a wise and just comment upon the inviolable sacred rules of evidence. I have the authority of this noble person for saying, that if this be an improbable story, it requires more cogent evidence than you would require for the purpose of establishing a case that occurs in every day's experience. Is it a probable, or an improbable case; and if it is an improbable case, have you that sort of evidence which would be sufficient to make you believe that which the experience of every day shows you, is unlikely ever to happen? That it is an improbable case, no man can hesitate about for a moment. What is it? Fourteen or fifteen persons assemble together at a common tap-house, with no other fire arms than tobacco pipes, form a conspiracy to overturn a Government, resting upon the shoulders, and supported by the unshaken loyalty of almost as many millions. What are the persons who have undertaken to do this? Men of the lowest situation in society. Have they any foreign connexion; is any person on the Continent to lend them aid or money? There is not an atom of evidence of it. How are they to do it then? Does it appear that this conspiracy of theirs, by which such a mighty work is to be accomplished, has extended to any distance into the country, and that they are to expect the moment they have struck the blow, which they are to strike without any means, in London, any assistance from the country, without which it was utterly impossible to carry such a plan into execution? I am happy to say, there is no proof that they could have entertained an hope of any such co-operation. These witnesses, for the purpose of giving credibility to their story, have said that such assistance was talked of. It is a case, in which, according to them, every thing that was impossible, was talked of, but nothing done. But is it true? I say it is not; and say it upon that which has appeared in this cause. If it was true that Colonel Despard said London would not do for the organization of the men, but that the country was organized from one end to the other; how happens it

to day, after so many hours exhausted, that not the least proof has been laid before you of any other conspiracy in any other part of the country, or of any vestige of this having extended itself into the country? You hear but of this miserable conspiracy, concerted at a miserable pot-house in London, for the purpose of carrying this miserable plot into execution. The imagination of Cervantes was lame and futile, compared to the projectors of this scheme. He never could work himself up to conceive any adventure for the Knight of La Mancha, to be compared with that which these heroes at the Oakley Arms were about to attempt to carry into execution in this Country.

Another thing, this plan was ripe for execution, and part of it ought to have been executed, but no reason had been given why it was not executed. With what means was it to be executed? My friend, who sits by me, suggests, with the enormous sum of fifteen shillings and sixpence in the Treasury. By what means is this mighty scheme to be carried into execution? by what arms? not a pike, gun, sword, pistol. No one offensive weapon has been found in any one place. By whom was it to be done? Why, you have no evidence of even forty men being ready at any one period. What were they to accomplish? The Tower was to be taken, although guarded with one battalion of Guards; the mail coaches were to be stopped; the King was to be attacked, while attended by the Horse Guards, in greater numbers than all the conspirators, as they have been represented to you, not one of them, I beg to say, for the honour of that corps, having been proved to be corrupted; for the utmost extent to which corruption had gone, was through some few companies of the Foot Guards; not one of the Horse Guards was ever corrupted; yet with these forty or fifty men of buckrum, the Tower was to be taken, the Bank was to be seized, the India-house was to be overturned, the King was to be seized in the midst of his Guards as he was going to the House of Lords, and the two Houses of Parliament taken most complete possession of. One cannot make it more extra-

vagant, than in the way Colonel Despard is represented by one of the witnesses to have acted; that when one man, not so drunk as the rest, suggested a difficulty, he should say, if there is no one among this tattered regiment dare attack the King, guarded as he will be, I will break through the Horse and Foot Guards and do it with my own single hand. It is quite as probable this gentleman should attempt to do it with his own hands, as that he should attempt to do it with the assistance of those persons.

I think I have demonstrated, that a more improbable scheme than this never existed. Upon what foundations do Governments stand? Is the Government of a great Country, such as I have been describing, resting upon foundations, which, I truſt, for the benefit of us all, will last for ever, are we to be gravely told, and in a Court of Justice, that we are to be bereft of all these advantages, from a miserable conspiracy, formed at a low pot-house, having no other means of carrying it into execution? You are not to sit in that box and conjecture what there might be connected with this. You are to take the case as it is proved by those, who have had the means of developing this conspiracy to the bottom, and who have not traced one single communication with any man, who could be supposed to lend any aid and assistance to carry such a quixotic scheme into execution. I state the utmost extent of it, when I state forty or fifty as being the utmost number of persons connected, in any way, that ever assembled in connection, for carrying this into execution. Then are you to be content with evidence, falling infinitely short of that degree of evidence, that has been acted upon in other cases, in a case so improbable, and which, to be believed, must be proved, by the most irrefragable proof? I have stated what has appeared to be the evidence in other cases, and you will see how deficient the present evidence is, inasmuch as in the cases I refer to, the treason has been proved by things that cannot lie, whereas all the Treason in this case has been proved by these

four men, who, from what they have confessed to-day, are all wholly unworthy of any belief.

Gentlemen, perhaps you may ask, do you mean to contend, that no traiterous scheme whatever existed? I do not mean to contend any such thing; I am firmly persuaded that a traiterous scheme did exist; but that merely is not the question you are to try. The question to be tried by you is—Is the man at the bar the traitor? is it a Treason of which he was the origin? or has he ever concurred in it? I am firmly persuaded, that after a few observations you will agree with me, it is impossible to conceive that this was a Treason; in which a man of his description could for a moment concur. I say, I believe a traiterous conspiracy did exist; but I am firmly persuaded, that the extent to which it was carried, was far short of what has been represented to-day. I have no doubt that some men have conceived the detestable design of seducing the army from their allegiance to the King, and after they had corrupted them, to make use of them for some wicked purpose or other; but I am firmly persuaded those persons have never got the length of determining, in what manner they should employ the force thus acquired. But the moment they began the plan of seduction, they found the integrity of the soldiers opposed an insurmountable barrier to their wickedness, and that it was necessary immediately to devise a means of securing themselves from the justly merited consequences of their crime.

There was but one way in which, by any possibility, they could ever hope to retreat from their danger, and Windsor, the witness, pointed out what that way was. The Attorney-General attributed his conduct to motives of contrition; but I have too good an opinion of the Attorney-General's sense, to think he supposed that it was contrition that wrought the change in Windsor's conduct. I believe he only abjured the Treason, when he found it was impracticable, and considered that the only way of securing himself was by charging others. What had these per-

sons to do then? to do that which Windsor did, notwithstanding he had gone to Mr. Bownas, and represented himself as being weary of the Treason in which he had engaged, still to attend the meetings, and still to do that, which nothing but the most infamous man alive could do; although he found the Treason impracticable, although he knew the consequences which must attend it, although he pretended to affect to repent the share he had in it, to seduce other persons into it for the purpose of betraying them. I cannot conceive a more horrid character, than the man to whom such a conduct can be imputed. I know of but one being, that I can assimilate to such a character; an infernal being, in whom are embodied all the vices that war againſt the happiness and condition of man; and yet it is upon the credit of such a man, that you are to say, this Gentleman, whom I will prove to be a man of character, this Gentleman, whom the Attorney General says you must presume innocent till proved guilty, is guilty of a crime, which forfeits his honour and his property, and delivers over his life to the most dreadful sentence the law of this Country allows to be pronounced.

If there be Treason, who are the Traitors? There is evidence arising from the nature of the case, which decides this point; it depends not upon the veracity of witnesses, but on evidence of a description which cannot deceive you; the Treason betrays its base original; the Treason shews that it has been hatched by men, "whose untutored" minds are incapable of embracing an extended scheme of action; who are ignorant of every thing beyond the narrow sphere of their own former duties; who imagine that all that is necessary to form an army, is to get men together, and put arms in their hands; who know nothing of the arrangement necessary to give effect to military force, or of the supply of provisions and ammunition, that they must have to be enabled to keep together, and to execute the purposes of their union, and therefore make no provision of either; who think that, because the small circle of their drunken associates have persuaded themselves they ought to obtain some change in their con-

dition, all the guards, the whole army, and a great majority of the nation, entertain the same sentiments, and are ready to co-operate in their plans. Whether this ridiculous scheme was likely to be undertaken by ignorant men, who did not know the obstacles they had to surmount, or was likely to be undertaken by Colonel Despard, who, I will ſhew, possessed all that knowledge, which would shew him the impracticability of such an undertaking, you will judge.

The Attorney General felt, that it was necessary for him to account, how such a man as Colonel Despard could have connected himself with so wild and visionary a project, and he thinks he does account for it by telling you, that there are enthusiasts in politics as well as in religion, and the moment a man becomes an enthusiast, there is an end of judgment; but that is begging the question. Before you can build any thing upon the enthusiasm of Colonel Despard, it must be proved that he is an enthusiast. What evidence have you to-night, but the black and despicable testimony I have spoken of, which shews that any thing like enthusiasm has existed in his mind? any thing like that sort of spirit, which would induce him to overleap all rational consideration, and to attempt such an undertaking, as none but fools and madmen would undertake?

I will give you evidence upon this subject; I will shew you what Colonel Despard is, and ask you, after having heard it, whether, supposing him to be as malignant against this Country as I hope he is firmly attached to it, for though he has been a disappointed man, yet God forbid that disappointment should be supposed to engender Treason, whether, unless he is bereft of his reason, unless he is in that situation, in which, according to the laws of man, he is not to answer at this bar for any action he could have engaged in, any conspiracy of this sort, I will prove that he was a soldier from his youth; not a soldier, whose only knowledge of the duty of a soldier is confined to what he has learnt on the parade, but I will prove he has been a man accustomed to form extensive schemes

both of conquest and defence; I will prove him to be a man, who has been used to estimate all those resources necessary for accomplishing any of those schemes; I will prove he has been a man, who has been placed in situations, in which it was necessary for him to calculate upon the chances of success and miscarriage, that must occur in any military operation. Is it likely that a rash enthusiast would be so employed? or have such kind of services any tendency to tincture the mind with enthusiasm? Do they not rather sharpen and strengthen the judgment, and cool and regulate the passions? Is he, who has been accustomed to conduct and plan expeditions, the judiciousness of which have been proved by their success, or men, altogether unused to think on such subjects, most likely to have formed a design, which every body must condemn as impracticable and ridiculous? The thing speaks for itself; it requires neither comment or evidence.

If I am allowed to go into evidence, I shall shew the particular services in which he has been engaged; I shall shew that he, who to-night has been represented as arming his fellow subjects against his Country, has spent the best years of his life in the service of that Country, in the worst climates, in the midst of every species of hardship; that he has been not used merely to obey, but accompanied by one whom I shall call, whose name does honour to this Country, Lord Nelson; that, in conjunction with that noble person, he led on the arms of his Country and accomplished an important victory; that this presumptuous and ignorant man was intrusted by the Government of Jamaica to fortify that island, which proves how complete a knowledge he has of that profession of which he is a member; that he executed these services in such a manner, as to obtain for them the thanks of his Sovereign and the House of Assembly of Jamaica.

Gentlemen, you will ask me, then, how happens it that this Gentleman, so circumstanced, was found in the situation in which it was impossible for me to deny Colonel Despard was found attending one of

these meetings. I am not afraid to encounter that, I feel it the only thing that presses upon me, but I feel that though exhausted with fatigue, I have strength enough to explain that transaction. It has so happened that Colonel Despard has been from particular connections, that he formed some few years ago, suspected of being concerned with a traiterous conspiracy then supposed to exist. It is not necessary that I should now say a word whether that traiterous conspiracy did exist, or did not, the consequence of that connection was, that Colonel Despard after having performed the services for his Country that I have stated, was confined for three years in one of its prisons, and after he was liberated from that prison, was degraded from the rank he had acquired in the army, not rank acquired as rank sometimes is acquired, but acquired by honourably serving in a dangerous campaign. This circumstance was perfectly well known throughout the Country; Colonel Despard was therefore just the very man that conspirators would lay hold of who were disposed to get rid of a Treason which had attached upon themselves, and throw it upon the shoulders of another. It would not do for the witnesses who have been called to-day, to have said Macnamara, Broughton, and the other persons, whose names nobody knows any thing about, have engaged in a conspiracy to overturn the Government; Government would say at once, this is all incredible; it cannot be stated to a Jury; you must bring us forward some leading character that was to carry this conspiracy into execution, or we cannot institute a prosecution. These wicked persons, therefore, knew it was necessary to fasten upon better persons than themselves before they could make their tale credible. For this purpose they invited him to their meetings; upon what pretence could they ask him to go there, a most natural one, upon pretence that they felt themselves aggrieved by some treatment that they experienced as soldiers; and knowing that he was an ill-used soldier, and expecting he would have a common feeling with them, they requested he would advise them as to the mode

of obtaining redress. He did conceive himself an injured man, and was therefore induced by that sympathy which men feel for those who profess to endure the same evils with themselves, to give them his assistance. He therefore attended a meeting, which it is material to state, was an open one, not conceiving that any thing was meant to be transacted there but what was perfectly consonant to law and justice. It does not follow that, because he attended that meeting, that he was a traitor; every person that attended that meeting was not a traitor; thirty were taken; fifteen discharged; two of the persons that were known to attend there, were not taken up; one person who did attend there, near whose chair these very oaths was found, was found to be an innocent man, and discharged; therefore we have the authority of Government, that it does not follow that, because a man attended that meeting, that therefore he was a traitor. Why, then, is Colonel Despard to be said to be a traitor, for no other reason than because he was at the meeting; that is the extent to which the evidence goes against Colonel Despard, as applicable to the meeting at the Oakley Arms; and then the guilt of Treason depends entirely upon that species of testimony, upon which I have observed at so much at length.

I have mentioned that he was suspected of Treason from a connexion he formed in the year 1798. I have to state to you also, that though he was suspected, it turned out that there was no foundation for that suspicion; though he was detained in prison for three years, he was afterwards discharged without the Crown finding even evidence enough to lay before a Grand Jury, much less to convict him, if they had put him upon his trial. I have a right, therefore, to presume from this, that he was wholly innocent. I beg here not to be misunderstood, I do not mean to say, that those who passed the act of indemnity did wrong; I think the Government were entitled to the protection of the act. I am not, therefore, in the observation I am about to make, meaning at all to insinuate, that those who passed the act of indemnity, which prevented ac-

tions from being brought against Ministers for confining persons without bringing them to trial, did any thing that was wrong; but I have a right to say, that though they were entitled to protection, and Ministers must have protection, when they act for the public good, however much it may press upon the convenience of individuals, because the interest of individuals must give way to the public interest; but though I am willing to concede this, and though I think the measure may have been right; and should, had I had the honour then of being in a situation which would have given me a power of concurring in it, have concurred in this measure, yet it prevented Colonel Despard from doing that which otherwise he would have done; namely, have brought that species of action which would have enabled him to vindicate to the whole world his character from these accusations.

I say, therefore, that Colonel Despard, in the year 1801, was discharged from the confinement which he laboured under, as a person on whose character there was no spot; as a person who, though his conduct had been sifted to the bottom, no fault could by any possibility be found in it. What inference do I draw from this? Is it probable that Colonel Despard, who I assume from this circumstance to be innocent in the year 1798, when the state of things both abroad and at home held out an encouragement to the crime, was wholly free from guilt, should in 1802, without any inducement whatever to engage in any such undertaking, without any hope of its success, associate himself with men, whom he must know were destitute of all the means of accomplishing any such end, to destroy the King, and overturn the Constitution?

I think you will agree with me, it is not very probable this should be the case. In the year 1798, what some were pleased to call freedom shone out in full blaze in France. All who were on that side the water, and many who were on this, at that time were bent on extending the flame to this Country. In 1802 things were altered, the very embers from which this flame proceeded were wholly extinguished. France had

within her own territories renounced the doctrine of the indefinite rights of man, and was no longer desirous that they should be inculcated in other Countries. She had gone the same round which all other Countries have gone who have factiously overturned a legitimate Government, rioting for a time in all the excesses of anarchy and disorder, and then seeking a shelter from those intolerable evils under a Government more severe than that from which they first broke loose.

Gentlemen, I have made all the general observations which I think it necessary to make upon this case, but before I sit down, I think it necessary to say a little upon the evidence which has been given. I have already observed to you, that it appears to me, all the different persons who have been examined to-day, who prove any thing like a conspiracy on the part of Colonel Despard, are certainly witnesses to whom it will be utterly impossible for you to give any thing like credit. I will mention all the different names of those persons I mean to class under that description. Before I sit down, I wish to read some part of the testimony these men have given, and particularly those who bring the case most home to Colonel Despard, and ask you whether it is possible, even in the most trifling case, much less such a one as this, to say you can give them the least credit.

The principal person that has been examined is a person of the name of **Blades**: it is enough almost to say, that he undoubtedly is an accomplice; it is enough to say that Blades has taken one of those oaths, which the Attorney General defied me to put an innocent construction upon, which is so baneful, that Colonel Despard is supposed, by being in the same room with the paper on which it was printed, to be contaminated.

Gentlemen, I do not mean to argue before you to-day, that because a man has taken one of those oaths, that, therefore, he is to be considered as a perjured man, in coming to disclose that which he has been sworn to conceal; God forbid I should ever be found propagating such a doctrine; it would be most dangerous, most mischievous, and most false: such an oath un-

questionably is not binding upon any man; if a man takes an oath to commit a crime, that oath undoubtedly is of no force whatever; God forbid it should, for it would give stability to the most wicked conspiracy. It is impossible that it can have any force. He insults and abuses the divine truth who appeals to it to sanction crime, and by the invocation brings on his impious head the curse of Heaven to blast the wicked design which he thus pledges himself to the execution of. Why then do I advert to that circumstance, in the evidence of a man who is a witness here? I do not blame him for breaking the oath, but I charge him with blasphemy in taking it. And I ask you whether a man who has so abused the solemnity of an oath is afterwards to be believed, recollecting at the same time that he has already falsified one oath by another; for as a soldier he has sworn to be true to his Sovereign, and by this oath he has pledged himself to betray him.

The next person that comes, who says any thing that is material, is Windsor: I have said enough respecting Windsor, he has taken the oath, and he appears to be an accomplice, but an accomplice of the worst sort; an accomplice, who, after he had repented of his crime, still goes on, not for the purpose of discovery, but of betraying others into the situation from which he wished to relieve himself.

Then I come to William Francis, the only person that has proved any thing like Treason against Colonel Despard, the only man that has connected Colonel Despard with this oath; for I am sure it will not be argued that because there were cards in the room where Colonel Despard was, that that circumstance alone makes their contents evidence against Colonel Despard. The only person, therefore, who brings home this card to Colonel Despard is the witness of the name of Francis. It is material also to observe, that though this conspiracy existed from the month of March to November, at which time it was to be completed, Francis is the only man who brings Colonel Despard at all within the pale of it before the 12th of Novem-

ber; they must then have found out that nothing could be done, and, therefore, could only want Colonel Despard to deliver him up as a victim, as the means of purchasing their own indemnity.

Let us see whether his story is not so irrational and inconsistent with itself, as that it is impossible for any man to believe it. What is the account he gives? He tells you he has a brother, who unfortunately is confined in prison, one of the persons engaged in this conspiracy, and against whom he has been giving evidence to-day to affect the life of that brother. I confess myself, much as I respect Courts of Justice, if a brother of mine was in the situation in which that man's brother is, the rack, or the torture, engines and instruments which are not allowed by the law of this Country, never should extort from my mind a secret to be made use of against the person standing in that near relation. The tendency of his testimony is not merely to ruin this Gentleman, an utter stranger, but one so nearly connected with him as his brother. But what is the account he gives? He feels that it is necessary, to give him credit in a Court of Justice, that he should not admit he had taken the oath of secrecy, therefore he distinctly tells you he never took this oath of secrecy, and he goes the length of telling you, that he avowed to Colonel Despard, when pressing him to take it, that he was not a man of his principles, and did not go along with them in their scheme, and would not co-operate with them. Is it to be believed that any one but a madman and a fool would have disclosed to this man, what he states under these circumstances Colonel Despard did disclose, and that he should press him to take that oath, when he knew it was an act of High Treason, when he knew that man had refused to take that oath before. But let us follow this man a little further; although he would not take the oath, and was an enemy to the scheme, he went to this house in Hatton Garden, and there, like the Barons of old, they lay their bayonets across each other, and swear to be true to one another, and not to break up that meeting till they come to the determi-

nation of the time and place where an attack was to be made. Who tells you this? a man who says he is an avowed enemy to conspiracy, and always distinctly told every body so. If he did not choose to swear by the card, how came he to swear so deliberately by the bayonet? And this man, who says he never concurred in the conspiracy, who says I always told them so, in the next place tells you, I swore to be true by the bayonet, I swore I would not leave the room till the day was determined upon when all was to be executed that had been concluded upon; he swears Colonel Despard said to him, "When your brother is so firm in the cause, I wonder you should profess different principles." When he had stated that he just before had stretched out his hand with the arms with which he was entrusted by Government to defend his Sovereign and the Laws, and swore by them that he would use them for the murder of the one and the subversion of the other, is such a man as this to be believed, when proving so improbable a story as that which he has stated against the Gentleman at the bar?

The only remaining witness is Emblin; he certainly is a man of considerably more sense, but he has as little honesty as the rest; he has varnished his tale over better, but still, when it comes to be examined, it appears to be equally defective in that which is essential to give it credit. Indeed there is a manifest hypocrisy about this man which renders him more suspicious than the others; he tells you he refused to take the oath. Do not tell me of a man who refuses to take the oath, but goes to the meetings from day to day, and sits and hears these horrid stories told every night, and either expressly or by his presence silently assents to them; who tells you that when it was settled that a cannon should be fired at the King he shook with horror.—At what? not the destruction of the King, that does not seem to have discomposed him, but at the idea that perhaps some of his own party might accidentally fall by the stroke. Is a man who had only the sensations which he has described, no traitor, no accomplice; is he to be believed, unless

he is confirmed up to the teeth? He comes here in chains, having been kept in custody ever since. The Prosecutors cannot trust him at large. I hope some law may be made to prevent one so dangerous from ever being abroad again: men of such dispositions are to be shut up and guarded as other noxious animals are. He who was not shocked at all this Treason begged of my friend Mr. Garrow that he would not insist upon his disclosing such a circumstance, as that he said he would kiss the servant girl. The confirmed traitor, the companion of the assassins of the King affected to be ashamed of what many honest men would avow without a blush. Oh, hypocrisy, hypocrisy! thou art inseparably connected with every species of guilt; thou art the very soul of crime, and what art thou but specious falsehood? Truth and hypocrisy can never inhabit the same bosom; shew me a decided hypocrite, and I see a man from whose lips nothing can come that has the stamp of truth.

I am persuaded that at this late hour of the night, fatigued as I necessarily must be in passing through so arduous a service, that some observations must have escaped me, that those which have occurred to me I have not pressed with that force which the occasion demands at my hand; but I have one consolation in the assistance of my learned friend, who will soon follow me, and supply my defects; or even if he should fail in doing that, we have this further consolation, that every thing which can be urged in favour of the prisoner will be stated by the noble and learned Judge; any defect of mine he will supply, any inaccuracy he will correct. I have only to remind you that you are sitting in a British Court of Justice; it is one of the maxims of the Country in which we live, that maxim upon which every thing dear and valuable depends, that you are to administer justice in mercy; you are sitting in a Court of Justice which is a member of the Government of a free people: you will remember it is one of the principles of freedom that men are not to be compelled to an adherence to the Government by terror, but to be attached to its laws by love. I am

perfectly persuaded, therefore, that if you should agree with me presently in saying this case is not made out, and it is not to be made out by conjecture, you are not to condemn unless all idea of innocence be completely extinguished by the weight of the evidence that has been produced upon the cause; I say, if you should agree with me in saying you do not see satisfactory grounds for delivering over this Gentleman to that horrid death to which you assign him if you pronounce him guilty, a verdict of acquittal will have a greater effect than a verdict of guilty.

Gentlemen, I say, we are attached to our Constitution and laws by love, and are not bound to adhere to them by fear; that love must necessarily be increased by such a circumstance as this, that after so many hours of trial by so respectable a Jury, men of consideration and consequence in the Country, this Gentleman, after the attack that has been made upon him, is delivered from it by your verdict.

I am persuaded, that if there are any deluded persons in this Country who fancy that we have not attained that degree of perfect freedom which is capable of being attained; though I should hope what has lately passed would operate completely to remove that delusion, nothing will so completely satisfy them of their mistake, as a verdict pronounced by you of not guilty, to night; they will know, that when a subject is attacked by a prosecution not made out by fair and clear evidence, he is sure of protection in the uprightness and integrity of the Judge and the mercy of the Jury who try the cause. They will learn, that true freedom consists in the just and humane administration of law, and will observe and cherish the laws they find to be so administered.

I at one time intended to offer evidence in contradiction of these witnesses, but if I have shewn them accomplices, and that the case is only proved by their evidence, I have shewn them unworthy of contradiction, and the attempt could serve only to increase the fatigue you have already undergone; but I shall offer most material evidence; I shall offer evidence of the

character of this Gentlemen. If Courts of Justice are intended to correct the morals and confirm the virtuous inclinations of those who attend them, which is one great object of their institution, they cannot do it more effectually than by paying attention to the evidence of good character; it is telling a man that, if by the tenor of his life he shall acquire a good character, it shall afford him a shield in a Court of Justice in the day of trial. The evidence of character must have effect in another point of view; the Attorney General has said every man is to be supposed innocent till proved guilty; it is much less likely that a man who has maintained a good character should become on a sudden the vilest of men, *nemo repente sit turpissimus*, than that one who has appeared less correct should become criminal. I say, if this Gentleman has borne a good character, which I shall shew he has, that the case attempted to be made out against him is most improbable; one would rather almost believe, that the stream should set back upon the fountain, than that a man who should have deserved well of his Country should concur with such miserable persons as you have heard to-day, in one of the most miserable conspiracies for Treason that I ever heard of. I have too good an opinion of the loyalty of this Country to give credit to this story. If the case is made out, it is a most detestable and abominable Treason; if the case is made out, no man but would with satisfaction see the sentence of the law executed; but, remember the maxim of the Attorney General, that, in proportion as the crime is enormous, so ought the proof to be clear.

Gentlemen, I beg your pardon for troubling you at such length at this time of night.

Evidence for the Prisoner.

The Right Honourable Lord Nelson sworn,

Examined by Mr. Gurney.

Q. How long has your Lordship known Colonel Despard?

A. It is twenty-three years since I saw him. I became acquainted with him in the year 1779, at Jamaica. He was, at that time, lieutenant in what were called the Liverpool Blues. From his abilities as an Engineer, I know he was expected to be appointed——

Lord Ellenborough. I am sorry to be obliged to interrupt your Lordship; but we cannot hear, what I dare say your Lordship would give with great effect, the history of this gentleman's military life; but you will state what has been his general character.

A. We went on the Spanish Main together; we slept many nights together in our clothes upon the ground; we have measured the height of the enemies wall together. In all that period of time no man could have shewn more zealous attachment to his Sovereign and his Country, than Colonel Despard did. I formed the highest opinion of him at that time, as a man and an officer, seeing him so willing in the service of his Sovereign. Having lost sight of him for the last twenty years, if I had been asked my opinion of him, I should certainly have said, if he is alive he is certainly one of the brightest ornaments of the British Army.

The Right Honourable Lord Nelson,

Cross-examined by Mr. Attorney General.

Q. What your Lordship has been stating, was in the years, 1779 and 1780?

A. Yes.

Q. Have you had much intercourse with Colonel Despard since that time?

A. I have never seen him since the 29th of April, 1780.

Q. Then as to his loyalty for the last twenty-three years of his life, your Lordship knows nothing?

A. Nothing.

General Sir Alured Clarke sworn,

Examined by Mr. Serjeant Best.

Q. How long have you known Colonel Despard?

A. I cannot exactly speak as to dates; but I think I may say with safety, thirty years.

Q. From your knowledge of him what do you state to be his character?

A. I knew he was very much respected by the officers of the corps, and I considered him as likely to be a very useful officer. I knew him at a later period; whilst I was in the Government of Jamaica, he was under my orders during the six years I was in the Government. I saw him frequently, and had intercourse with him. I always considered him to be a very loyal, good subject, and a good officer.

General Sir Alured Clarke,

Cross-examined by Mr. Solicitor General.

Q. How long is it since you were last acquainted with Colonel Despard?

A. I think it is thirteen years since I have either seen him or had any intercourse with him. From the period of my quitting the Government of Jamaica in the year 1790, I have never seen him, or had any communication with him.

Q. During the period you have been speaking of, you have given a very high character of Colonel Despard; was he at that time in the habit of associating and living with the common soldiers?

A. I never knew such a thing; I should have had a very different opinion of him if I could have thought it.

EVIDE

The Right

E

Q. How lo
Despard?
A. It is tw
came acquain
maica. He w
called the L
Engineer, I k
Lord Ell
interrupt yo
I dare say y
the history
will state w
A. We w
many night
we have
together.
have shew
and his C
ed the hi
and an o
his Sover
twenty y
I should
tainly o
Army.

C

Q.
the y
A.
Q.
Desp

n I understand to be a good one, as far as you have own him?

A. Yes.

Lord Ellenborough. What is his present opinion, dependent of the business of to-day, may be the estion.

Mr. Serjeant Shepherd. Independent of every ing you have heard to-day respecting Colonel Desard, do you mean to represent him as bearing the haracter of a loyal man, from what you have heard of im?

A. I know that he fell under the suspicions of Government, and was imprisoned for a considerable time, and I supposed there was some ground for it, though I did not know what it was.

Mr. Serjeant Best. Your only reason for forming a different opinion, was the circumstance of his having been committed.

A. Yes; I had no other ground; the reasons for that I was perfectly unacquainted with.

[*The End of the Evidence for the Prisoner.*]

Mr. GURNEY,

May it please your Lordship,

Gentlemen of the Jury,

Exhausted as I am by fatigue, both of body and of mind, and oppressed by indisposition, which almost incapacitates me for the discharge of a much less arduous duty than that which is cast upon me, I am now called upon to make some observations in defence of the Gentleman at the bar.

If, Gentlemen, under these circumstances, I had stood in the situation of my learned and excellent Leader, I should have trembled for myself, and I should have trembled more for my client. But, when I recollect the speech which you have so lately heard from him, I feel the duty which is imposed upon me light

and trivial, compared with that which he has performed; and I trust I shall be able very shortly indeed to discharge the whole of the duty which is incumbent upon me.

Gentlemen, I cannot but rejoice in this case, that there is no question of law by which your minds can by any possibility be embarrassed; that this is purely and simply a question of fact; but you will observe what sort of fact it is. The ancient criminal law of this country adopted the maxim generally, *voluntas pro facto*. That maxim is in every other case exploded; but though it is exploded in every other case, yet on account of the high estimation in which the law justly holds the person of the Sovereign, it is retained in Treason; retained as it is in Treason, it affords a prodigious latitude to such persons as are sometimes called in cases of Treason; to such persons as have been called to-day, to say that which they know they may say with impunity, because they know it is not in the power of the most innocent man to contradict them by evidence. A person accused of this crime, is therefore subject to peculiar disadvantages. The law has recognized the peculiar disadvantages in which a person stands who is accused of Treason, and it has therefore given him peculiar privileges for his defence. These privileges are great compared with those of persons accused of other crimes; but, give me leave to say, they are not too great. When a man is oppressed by all the weight and authority of Government, and when a crime so atrocious as this is imputed to him, little chance, indeed, could he have of a fair and impartial trial, if the law did not distinguish his case from the cases of other persons, who are prosecuted in the usual way, and to whom crimes of a less degree of enormity are imputed. Inasmuch as the crime here charged is the intention of the mind, which can be known only to the great searcher of hearts, it must be made manifest by certain overt, or open, acts, which Overt-acts must be stated in the indictment, for this among other reasons—to enable the Prisoner to answer the charge brought against him. I do not mean to

say that the Overt-acts which are charged in this indictment, are insufficient to sustain the indictment; but allow me to ask, which of them could prepare Colonel Despard for adducing any evidence whatever to contradict the witnesses whom you have heard to-day?

The indictment charges him, together with divers other persons (and if the conspiracy be once established, and Colonel Despard be proved to be a conspirator, the act of one is the act of all) with endeavouring to administer unlawful oaths, with endeavouring to seduce soldiers from their allegiance, and with divers meetings and consultations (no place being named) for the purpose of deliberating upon the way and manner in which the King might be seized and put to death. But nothing whatever is charged, which has been proved by an unsuspicious witness, or which being sworn to by such witnesses as you have heard, could possibly be contradicted by the prisoner. These circumstances deserve particular notice in a case where the crime charged is the most atrocious that can enter into the heart of man to conceive; a crime which includes so many others within it, that that man must be indeed hardened in guilt, who could go on from hour to hour, and from day to day, in the contemplation of it, and in the consideration of means for its perpetration. The crime itself is improbable and unnatural, it is still more so when attended with such aggravations. If it be unnatural, if it be improbable, then it ought to be made out to you by witnesses who are above suspicion.

The Act of Parliament regulating Trials for High Treason, which passed in the reign of King William the Third, requires the evidence of two *lawful* witnesses to convict any man of High Treason. The Act of 36 Geo. III. upon which the last two counts of this indictment are framed, uses the expressions two *lawful* and *credible* witnesses; but still I think it goes no further than the Act of William III. because it never could be the intention of that law, or of any law, that

upon the oaths of two *lawful* witnesses, by which are meant *competent* witnesses; that upon the oaths of two witnesses competent to be examined, the guilt of any individuals should be ascertained, unless it should turn out upon the examination, that the witnesses were not only *competent* but *credible*; that they were witnesses of whom you had this opinion; that when they attested the supreme Judge of heaven and earth to the evidence they gave, they had that sense of the moral obligation of the oath they took, that fear of God in their hearts, and that dread of future punishment which should deter them from perjury.

Gentlemen, I shall not follow, because I should follow with very unequal steps, my learned leader in his observations upon these witnesses; but I beg to ask, if Colonel Despard is to be convicted upon the oaths of two *credible* and lawful witnesses, who are those two *credible* witnesses, upon whose oaths his blood is to be shed? Is Windsor one? Is Blades? Is Francis? Is Emblin? Is any one of these four men who have stood up to day without confusion, and without a blush, confessing themselves parties to the most detestable plan that was ever formed, confessing that they are the most wicked and abominable of mankind, avowing that they have been guilty of that crime, which, above all others, must render them infamous and detestable; and at the same moment asking credit from you; and to do what respecting themselves? To redeem themselves from destruction by swearing away the life of Colonel Despard. That is the situation in which they stand. If they stood here in circumstances of no peril themselves, if they stood here indifferent as to all other observations upon them, if they were pure and spotless upon any other transaction than that which they themselves have stated to you; even though an act of grace and amnesty had passed, and they could not legally be called in question, and not an hair of their heads could be touched; I ask you, would they even then be men worthy of belief to the extent

of finding any man whatever guilty of a capital offence?

Gentlemen, you have been told that in former cases, persons have been found guilty upon the evidence of accomplices, although not a great deal of their testimony was confirmed by unexceptionable witnesses; I know that was the case in the reign of King William, and in the years 1715 and 1745. But those accomplices were men of a very different description from these which you have heard, and were entitled to a very different consideration when they gave their evidence in a Court of Justice. Of what description were the accomplices who were called in the reign of King William? They were a part of a very numerous class in this country, who conceived that the oaths of allegiance they had taken to King James, could not be rescinded by any acts King James had done, nor even by any acts of that Convention Parliament which had pronounced upon his abdication, and had seated William and Mary on his throne. They thought (and that they thought honestly no man doubts) that King William was an usurper, and that to expel him by any means, and by all means, and to restore King James, was not only justifiable, but was loyal, honourable, and meritorious; nor were those accomplices the only persons who thought so. There were many thousands of good but mistaken men in this Country who were of the same opinion. When such persons were discovered in their Treason, and when they became witnesses, because they had not the constancy to carry their opinions with them to the scaffold, and preferred giving evidence, to dying martyrs to their cause, they were regarded with very different feelings from those with which such witnesses as you have heard to-day can be contemplated by any man whatever.

The same circumstance occurred in the year 1715 and 1745. The claims of the House of Stuart were then recognized by a very large party in this country. There was a prince in a foreign Country ready to

assert his right by force of arms, and there were powers in Europe leagued together to assist him in his restoration. When those two Rebellions were suppressed, and persons engaged in them were brought into Courts of Justice to give evidence against their associates in Treason, Juries could do no otherwise than convict upon their testimony, because they came before them with moral characters unstained; for they, as well as those against whom they were called as witnesses, had acted conscientiously, though upon erroneous principles; and although public policy and public safety required the execution of many who were so convicted, yet those persons went to the scaffold, attended not only by the compassion, but the respect of all men.

No inference can, I submit, be fairly drawn from the credit afforded to accomplices in those cases, in favour of the accomplices in this case. Those accomplices deserved pity for their errors and their misfortunes; these, contempt and execration for their atrocious crimes. And I intreat you to bear this constantly in your minds, that they are not only loaded with crimes, but that, by accusing Colonel Despard, they are rescuing themselves from perdition.

The Attorney General himself has anticipated me in some of the observations that I should have made. My learned Leader has anticipated me in many more, both upon the probabilities, and upon other parts of the case. But give me leave to call your attention for a single moment to the matter of *probability*. The study of probabilities has been called "the science of Judges." Whatever witnesses may swear, *probability* is the test by which we try their evidence. If a man comes into a Court of Justice, and tells you that another has committed an assault upon him, you will require but a slight degree of evidence to convince you of that, because every day's experience teaches you that nothing is more probable than that such a thing should happen. If a man comes and accuses a poor miserable ragged wretch

of committing a felony, you do not require uncommonly strong evidence (though even of that you would not convict the most miserable creature that exists, merely upon the evidence of an accomplice) because every day's experience teaches you it is not at all improbable. If the charge be forgery or murder, you require stronger evidence. How much more evidence then still would you require to convince you that any man, who is not a fit inhabitant for Bethlem, could be a party to such a plot as you have heard commented upon with so much ability and eloquence by my learned Leader, in which a few low and obscure individuals are supposed to have met at an ale-house, to concert measures for destroying a Government, mighty in its physical, mightier in its moral energies; strong in its civil and military establishments, infinitely stronger in the affections of the people; a plot so ridiculous and absurd, that, as my friend has observed, fifteen men are stated to have contrived the overthrow of a Government supported by the unshaken loyalty of fifteen millions.

I think I should be wasting your time, if I were to go at length into observation on the evidence which has been offered you. I am sure when his Lordship recapitulates that evidence, you cannot fail to observe upon the very many circumstances, from which the extreme improbability, I might say the impossibility, of such a plan as this, must be apparent. But how is it possible for Colonel Despard to furnish you with any evidence to contradict this? Ignorant of the persons with whom these people would associate him, and seduced to that meeting at the Oakley Arms by Windsor, for the purpose of giving some colour to the charge he was meditating against him, with a view to extricate himself from the dangerous situation in which he was placed, Colonel Despard could not foresee the times and places, at which these Witnesses would affect to speak to his presence and conversations. This trial cannot be adjourned for him to search for witnesses, to shew where he was at those several times to

which the witnesses have spoken. For his deliverance, therefore, he must rely, as in the same circumstances any of you must rely, on the improbability of their story and the infamy of their characters.

Gentlemen, the improbability of the story which you have heard, is heightened by the evidence which we have adducd to the professional character of Colonel Despard. You have it proved, beyond all question, that he is a man of great military skill. Whatever these low and ignorant men, whom you have heard, might design or might think, could Colonel Despard be so insane, as to contemplate the possibility of subverting the government, by means so totally inadequate?—The learned Attorney General himself felt the difficulty and endeavoured to surmount it. "Enthusiasts" said he, "over rate their means; enthusiasts overlook obstacles." Unquestionably they do. But what reason have you to believe that Colonel Despard is an enthusiast? None.—Has any witness so described him? Certainly not. The Attorney General then is begging the question, by assuming that the Colonel is an enthusiast, in order to give some colour of probability to the supposition of his engaging in a plot, more foolish, if possible, than wicked.

It is impossible, Gentlemen, to review the evidence that has been given to-day, without turning from it with disgust, and without wishing, most anxiously, that some information might be obtained from sources, less impure and polluted.

These accomplices who have been called to-day, (upon whose evidence it would be impossible for you to convict the Gentleman at the bar, of an offence much less enormous, and attended with infinitely less improbabilities,) might have obtained confirmation, if their story had been true. Emblin has chosen to tell you of a long conversation, supposed to have passed at the Oakley Arms between Colonel Despard and him, just before the officers came in; a conversation which, if it passed, must have been heard by every other person in the room. Now there were no less than thirty of those persons apprehended, of whom thirteen only

are indicted, and yet but two are called as witnesses. Fourteen or fifteen there are, who are neither indicted nor examined. Who they are I do not know; Colonel Despard does not know. It was not in his power, therefore, to instruct us to call them. Why are they not here? let the Attorney General answer that question. It cannot be put to my learned Leader or to me. These witnesses have been in the possession of Government; they have been examined by the Privy Council; they have been discharged upon their own recognizances, and must have stated, in those recognizances, where they were to be found. Whether they were all innocent men or not, I am sure it is not to be suspected; nor is it suggested, that all of them were guilty. If the witnesses who have been called have spoken truth, some confirmation they must have received by the examination of those persons, had they been produced on the part of the Crown. If, therefore, any confirmation could have been derived, from persons who were less liable to suspicion than those you have heard; from persons, who had not been administering or taking oaths; who had not been at all these treasonable meetings; who had not, after hearing treasonable conversation at one meeting, *for the humour of the thing*, gone to another, and heard other treasonable conversations, those persons would have been produced. If they had been produced, you would have obtained more truth, you would have obtained more satisfaction. One of two things must have occurred. If these witnesses have sworn truly, they would have been confirmed; if they have sworn falsely, they would have been contradicted. Every presumption is to be made in favour of the party accused in such a case. Every presumption is to be made against the suppression of witnesses. Why do not the Crown produce them? The Crown have them in their power. The witnesses are not here. The inference is to be drawn by you, and, in my humble opinion, the inference is inevitable.

Gentlemen, I have already observed, that it is utterly impossible for Colonel Despard to produce any evidence to the fact itself. Give me leave to ask, if

any of you had been, by any artifice, seduced to that meeting at the Oakley Arms, and had been found, therefore, in the company of these persons, and had afterwards had all that charged upon you which is charged upon Colonel Despard, what could you have done? Till this day we knew not the places or the days the witnesses for the Crown would choose to fix upon. The year past was all before them where to choose. Colonel Despard could not be provided with evidence, to shew where he was every day within these last few months, in which these witnesses were at liberty to range to make up the charge, therefore it was impossible to adduce any other witnesses than those which he has adduced—the noble and honourable persons, who have deposed to the character he has heretofore borne.

Lord Nelson takes it up in an early stage of his life, and tells you what a man he was, and what a character he bore at an early period of his service. No man can be insensible to the value of such a character from such a man as Lord Nelson, whose name distinguishes and adorns his Country.

The next witness is an able and gallant General, who has long, faithfully, and meritoriously served his Country. Sir Alured Clarke informs you what was the character of Colonel Despard while under his command in the Island of Jamaica. This character is brought down to a later period, to 1798, by Sir Evan Nepean, who had the best knowledge of him of all, namely, official knowledge; and he states, that both from the testimonials he brought over from Jamaica, and from the official intercourse he had with him, he entertained for him the highest respect. That knowledge and that intercourse would have been continued to the moment at which this Gentleman appears at the bar, but from the circumstance of his being arrested in 1798, a circumstance which he has been forbidden by law to explain. If he is denied the advantage of vindicating his honour in the face of his country, as he would have done but for the Act of Indemnity, he ought not to have the disadvantage of any unfavourable conclusion

being drawn against him on that account. The long imprisonment under that arrest, cuts off Colonel Despard from evidence to his character of a later date.

With respect to Lord Nelson and General Clarke, their respective services in distant parts of the world, necessarily separating them from Colonel Despard, fully explain the reason, why the character they give him, does not come down to a late period; because it is clear, from the esfimation in which they held him, that if they had been in the same part of the world, their intimacy would have continued to subsist.

Gentlemen, the task which naturally devolves on me, in the station assigned me in this cause, is the summing up of the case of the defendant. If my learned friend, Mr. Serjeant Best, had omitted any observations, which appeared to me material in this gentleman's defence, I should make no apology for trespassing longer on your patience, tried as your patience and wearied as your attention must be; but when there are no omissions to be supplied, it would be unpardonable in me to risk the weakening the impression my learned friend has made upon you, by going again over the ground which he has trodden. But before I sit down, I must intreat your serious attention to one observation more. There have been many cases in the history of the criminal jurisprudence of this Country, which should impress caution on the minds of jurymen; many in cases of other crimes; many in cases of Treason. How many innocent men have died in consequence of the credulity of jurors? I will refer you only to the supposed Popish Plot in the reign of Charles the Second, for which as many men as are indicted here suffered unjuftly; the juries, by which they were tried, being deceived by the hardy swearing of witnesses, not more infamous than those you have heard to-day. And yet those juries were countenanced by the whole nation, the two houses of parliament leading the way. So firm and general was the belief in that plot, that to dispute or doubt its existence, was deemed a mark of disaffection to the Protestant cause. In a short time the

veil was torn off; the perjury which had triumphed was discovered to be perjury; but it was too late; the dead could not be recalled from the grave, and the jurors who had sent them there, were left to the bitter reflections of their consciences, to the unavailing lamentation of their credulity. But though those persons died unjustly, I trust they did not die in vain. Their innocent blood speaks aloud to you not to follow the fatal example of your predecessors, not to lend, as they did, too easy faith to the testimony of wicked men. May you attend to the warning voice, and pronounce a verdict of Acquittal, of which, I trust, you never will have reason to repent.

Lord Ellenborough.—Colonel Despard, if you have any thing to offer to the Jury, it is now the time to make such observations as occur to you to be material for your defence, if, having already been defended by your Counsel, you shall think fit to add any thing to the observations they have made on your behalf.

Prisoner. My Lord, my Counsel have acquitted themselves so very ably and so much to my satisfaction, that I have nothing at all to say.

REPLY.

Mr. Solicitor General,

May it please your Lordships,
Gentlemen of the Jury,

It is now my duty, as one of the Counsel for the Crown, to trouble you with a few observations upon the whole of this case; and although in the discharge of this duty, I feel much more anxiety than I ever experienced before in my life, not only from the importance of the subject before you, but from my great

inexperience in any Court of this description; yet I ought to be in a great degree relieved by the consideration, that I am addressing a careful, an attentive, and an intelligent Jury, acting under the directions of a Court, which can give them every assistance and information upon any point of law that could arise, and will make to them every fair observation upon the evidence that has been produced, in the course of this serious and important trial. This consideration, Gentlemen, at the same time that it ought to relieve my mind from much of the anxiety I feel, will certainly induce me, in addition to many other reasons I could state, to compress, within as narrow compass as I am able, the observations I think material to make to you in this stage of the trial, and to take up as little of your time, as the nature of the defence and the importance of the subject you are to decide upon will admit.

Gentlemen, this trial, although it has occupied a great deal of your time, involves in it no intricate or complicated question. It requires no conjectures to be raised, no deductions to be made, no inferences to be drawn, to constitute, and to bring home the offence alledged against the Prisoner. But it is a direct, distinct, and positive charge against him, of a conspiracy against the King; of intending either the death of the King, the seizing of the person of the King, or the deposing him from his throne; and if any one of the circumstances stated in this indictment, as manifesting such a traitorous intention, and in furtherance of such a design, has been sufficiently in point of law, and satisfactorily in point of fact, established by the evidence you have heard, it will be your duty—I speak under the correction of the Court—it will be your duty, painful as the discharge of it may be, to pronounce the prisoner guilty. If no one of these Overt-acts has been so established, the Prisoner is undoubtedly entitled to his acquittal.

Let us then, Gentlemen, for a moment see what it is that the law requires to be proved, and what, in point of fact, has been established by the evidence you have heard. The law requires two witnesses in

the case of High Treason, either both to the same Overt-act of Treason, or to two different Overt-acts of the same species of Treason, the one witness to one Overt-act, the other witness to another Overt-act; and it further requires, that there shall be proof of an Overt-act within the County in which the prisoner accused is tried. This being what the law requires, now let us see whether that requisition has, or not been satisfied, by the evidence you have heard.

But before I call your attention to that evidence, it is material that I should remove from your minds a doubt that has been raised by the ingenuity of the learned Serjeant, in stating to you what is in point of law an Overt-act of Treason. The learned Serjeant states, that Treason cannot be made out by words, and he has quoted as an authority, a very ingenious French Author. Now, Gentlemen, if my learned friend means that loose words, having no reference to any act or to any design, that for instance, in this case, loose words spoken not at any meeting or conversation, nor with any view to a meeting or consultation for the purpose; if my learned friend means that such words will not amount to an Overt-act of Treason, I agree with him. If he means any other thing I differ from him, and the Court will decide between us, what, in point of law, amounts to an Overt-Act of Treason. But before I make that appeal, and in order that I may be the better understood in the observations I am about to make on the evidence in this case, I will state the law from an authority that I am very sure will be much more satisfactory to you, than that quoted by my learned friend. For I apprehend, that when an English Jury are assembled to administer the law of their Country in the most important case that can arise before them, they will be acting more safely; they will be acting more satisfactorily and prudently, by collecting the law from the learning and experience of English Judges, than from the opinion of an ingenious French Author. That when I state to you the opinion of Lord Chief Justice Holt, assisted by some of the ablest Judges that ever sat, when I quote the opinion of Mr. Justice

Foster, I think you will find that I am stating that which is the law of England, and that I am quoting authorities much more safely to be relied upon and pursued than the writings of Mr. Montesquieu, the author cited by my learned friend.

What I allude to with respect to the question, how far words are to be considered as an Overt-act of Treason, will be found in the fourth volume of the State Trials, upon the trial of Charnock, King, and Keyes, in the eighth year of King William the Third. They were indicted as conspirators in what was called the Assassination Plot. That was a plot to assassinate King William the Third, and to restore King James the Second to the Throne.

Lord Chief Justice Holt, assisted by Lord Chief Justice Treby, Lord Chief Baron Ward, Mr. Justice Nevil, Mr. Justice Powell, and Mr. Justice Rokeby, upon this occasion, and upon this very question of loose words, whether they did, or not amount, to an Overt-act of Treason, in his summing up to the Jury upon that trial, says, "Now I must tell you, Gentlemen, that what is said that bare words are not Treason is very true in some cases, for loose words spoken without relation to any act or design are not Treason, or an Overt-act. But arguments and words of persuasion to engage in such a design or resolution, and directing or proposing the best way for effecting it;" (you will find how very pointedly that applies to the Overt-act to which I shall presently bring your attention) "are Overt-acts of High Treason, as much as if two agree together to kill the King, though the agreement be verbal only, and not reduced into writing. Likewise consulting together for such a purpose, is an Overt-act of Treason." This I state to you to be the law; if I am incorrect, I shall certainly be, as I am very anxious, particularly in a case of this sort, to be corrected by the very able and learned Court that is here assembled.

Mr. Justice Foster speaks to the same effect. In his first discourse upon the species of High Treason, which is the subject of the present trial, and of the

charge against the Prisoner, Mr. Justice Foster says, "loose words not relative to any act or design, are not Overt-acts of Treason, but words of advice or persuasion, and all consultations for the traitorous purposes treated of in this chapter (i. e. of High Treason, in compassing the King's death) are certainly so.

Thus, Gentlemen, having I hope sufficiently settled what is an Overt-act of Treason in regard to conversations, I will proceed. I stated to you that it is necessary on the part of the Crown, in order to establish the case against the prisoner, to give evidence of an Overt-act in the County in which the prisoner is tried. I wish to bring your attention, therefore, to the evidence of Emblin. Emblin is said to be an accomplice; I do not admit that to be the fact; but I will now take him to be an accomplice; upon that part of the case I shall make some observations presently. But first let us examine what has been proved, and then consider what credit is due to the proof, and upon both points, I assure you, Gentlemen, I will add as little as possible to the fatigue you have already undergone; but if in the course of what I state, I should suggest any thing which can contribute to that verdict which is consistent with the justice of the case, and which shall be satisfactory to your own consciences, and satisfactory to the public; I am sure you will not think, that whilst I am endeavouring to discharge my duty, I am mis-spending your time.

The evidence of Emblin rests not upon his single testimony, but it is so confirmed by other witnesses, so confirmed by other circumstances, so unshaken by any thing that has been proved, or by any thing that has been said against it, that I submit with great confidence it is entitled to your credit, and I most earnestly beg your particular attention to that part of the case, when the noble and learned Lord who presides in this Court, shall state, as he will do, accurately and particularly, the whole of the evidence given upon this trial. I do not mean to waste your time by repeating all that has been proved by Emblin; but shall only state the substance of it. He tells you, that Lander

had mentioned to him some time ago, that there was something very serious upon the carpet, and that they looked to Colonel Despard as their head. And then he states, that on the Friday evening preceding the meeting at the Oakley Arms (when Colonel Despard and his associates were taken into custody) that on that Friday evening, whilst he was sitting at the Queen's Arms, at Vauxhall, with Graham, one of the persons charged in this conspiracy, Broughton came in to them. Who Broughton is, his activity in this business, his malignity, and his intimacy with Colonel Despard, have been proved by every witness almost that has been examined. Broughton came in, he joined company with Graham and Emblin, and he stated to them, that he wished them much to go with him to the Flying Horse at Newington, where they would see a nice man. Upon enquiry, he stated that Colonel Despard was the person who was to be there. Emblin then asked Broughton what it was for, and Broughton said the business was fixed, the King would be stopped upon his going to, or upon his returning from the House at the meeting of Parliament, and that Tuesday se'nnight was the time fixed when the business was to be done. Emblin and Graham agreed to go, and they did go to a little obscure alehouse, the Flying Horse at Newington, where they found Colonel Despard in a private back parlour, secret and close, in company with Windsor, a private soldier of the guards, with Smith a working hatter, with Broughton a working carpenter, Graham and Emblin; these composed the meeting. When they came there, for I do not mean to waste your time in stating the evidence with particularity, you will find that very soon after Emblin came into the room, he got into conversation with Colonel Despard; he asked him what was the nature of the business; Colonel Despard said there was a wish, or intention among the people, to recover some of their lost liberties. There is something in that sentiment, which, in the language, as well as in the tendency of it, has a strong resemblance to, and correspondence with the printed paper, that formed the

bond of union and of secrecy in this conspiracy. That was the outset of their conversation. Colonel Despard then stated, that he thought this was the time, that he had force in abundance, that the people at Birmingham, Leeds, and other places, he saw were ripe for the matter; that he thought the Tower could be taken, and the Bank might be seized; and then he went into a conversation about stopping the King's coach, and seizing upon his Majesty; that was much discussed amongst them; doubts were raised by some, and removed by others, as to the best and most effectual mode of doing it, and after many difficulties had been started, Colonel Despard said, "he would do it with his own hands," and then, or about that time, comes that memorable expression, which I am sure must have shocked every man that heard it, and which I cannot repeat without a degree of feeling which I cannot describe. I mean that declaration of Colonel Despard, "that he had well weighed the matter within him, and his heart was callous." What does this meeting at the Flying Horse, Newington, prove? It proves the whole of the charge; it proves the existence of the conspiracy; which the learned Serjeant (of Counsel for the Prisoner) indeed admits to have existed, it proves one of the objects of that conspiracy to have been an immediate, direct attack upon the King's life; it proves the attack upon the Bank, and the attack upon the Tower to be other objects of this conspiracy. Why, Gentlemen, as far as the evidence of one witness goes, the whole charge contained in this indictment is proved against the Prisoner.

But does this case rest upon the single testimony of Emblin? What is the account Windsor gives of it? Windsor is an accomplice, or he is a spy; it is immaterial which. Windsor gives you much the same account that Emblin does; he tells you all the topics of conversation, or nearly so, that Emblin speaks to; but observations have been ingeniously made by the learned Counsel, of differences between the evidence of these two witnesses, and I admit that they do not, either in the language, or in every circumstance which

they state to have passed at that meeting, exactly agree.. And I will appeal to your own experience, whether two persons of the most unimpeached characters and veracity, speaking of a conversation, and meaning to speak the whole truth, will relate precisely every circumstance, and state it in precisely the same way; it is the nature of men's minds not to do so, even though they may both mean to speak the truth; for one circumstance will make a stronger impression upon the mind of one man, than upon the mind of another, and while the mind of one is impressed with any particular circumstance and intent upon it, things will escape him, which other witnesses will speak to. It is by these variations, these differences that you may distinguish between a true and fabricated story; for if Emblin and Windsor had been witnesses suborned to speak to that which was not true, you would find them agreeing, not only in all the circumstances, but telling their story in precisely the same words. They differ in some circumstances, and I submit that that is a criterion of truth, and will always distinguish a true from a fabricated story.

But does this matter rest only upon the evidence of Emblin and Windsor? What is the account Mrs. Plowman, the landlady at the Flying Horse gives? She tells you there was this meeting, that it was a very private meeting at her house, that six persons were present, that one came with an umbrella, that they were in very earnest conversation, and she heard (and she was impressed by it) one of the party say, that he had weighed the matter well, and his heart was callous; that dreadful declaration is proved by Windsor and by Emblin, to have been made by Colonel Despard. Then here you have that proved by accomplices, which accomplices alone can speak to, and their evidence so confirmed by the testimony of a person of unimpeached character, Mrs. Plowman, a person perfectly unconnected with the conspiracy, and innocent of every part of it, and who does confirm their account by proving the meeting at her house at the time they speak to, composed of six persons, two of

whom she recollected, and the others she described, but she could not speak positively to Colonel Despard, for he went away before the rest, but there was a conversation passed before the others left her house, which enabled her to recognise Emblin, and Windsor she knew before. I say that their evidence is so confirmed by Mrs. Plowman in every part in which there could be any collateral proof, that they are intitled to credit in despite of any objection to them as accomplices. Then what follows?

You observe, and it is a material observation, that in a private conversation at this Flying Horse, between Windsor and Colonel Despard, this passed.—Colonel Despard said to him, " your name is Windsor, Wood has told me of you." Now, Gentlemen, have you forgotten who this Wood is? He is another of the persons charged in this conspiracy, and I think (if the account that has been stated is true) the worst traitor of them all. Wood, the friend of Colonel Despard, had mentioned to him who Windsor was. Really, when we come presently to consider what the defence is (I mean the character of Colonel Despard) I am sure it must shock the feelings of every man that hears it repeated. You recollect Wood is a private soldier in the guards; he was the man that was to place himself sentry over the great gun in the park, in order to fire it at the King's coach. Wood was the man who said, that if he was not present at the grand attack, he had a reserve, and would do his duty equally well elsewhere. Wood was the person who recommended that they should have thirty or forty people (and he would command them) who should seize the King in his way from St. James's to the Queen's house. This is the friend of Colonel Despard, and the man through whom he became acquainted with the character of Windsor.

Well; Colonel Despard having told Windsor that Wood had spoken of him, he appointed Windsor to meet him on the next Monday, the 15th of November, at the Tyger on Tower Hill, and to bring with him five or six intelligent persons, that they might further consider of the best mode of executing the plan. Windsor

went there; Colonel Despard also was true to his appointment, and they meet. When observing some soldiers there whom neither of them knew, the Colonel proposed that they should adjourn to a house opposite Whitechapel Church; they accordingly taking different ways, lest they should be observed, met at another alehouse, and then Colonel Despard brought with him a man of the name of Heron (and that is material to recollect) Windsor had taken with him only one soldier, a man of the name of Winterbottom. The fact is, that Winterbottom is in custody under this charge, but not being at any of the meetings in Surry, he cannot be tried in this county. These four persons met at an alehouse at Whitechapel. Windsor gives you an account of what passed between them. He tells you that Despard mentioned to him that the muskets deposited at the Bank, having had their locks taken off, could be of no use to them; he then consulted with Windsor further about the manner of taking the Tower, and he told him the King must be seized, and must be put to death; confirming the account he had before given of himself, that he had well weighed the matter within him, and his heart was callous.

Does this meeting rest upon the evidence of Windsor only? you have heard that Dean and Campbell, two soldiers, as innocent of this conspiracy as yourselves, by mere accident happened to be at this last alehouse; that they both speak distinctly to four persons coming in on that Monday, they both knew Windsor before, they prove him to have been one of the four, and they speak positively to the identity of Colonel Despard. This meeting then does not rest upon Windsor's evidence. What passed between him and Colonel Despard, could only be proved by Windsor, for it was private and between themselves. Upon that subject I reserve myself at present. Walker, the landlord of that alehouse, gives a rather different account; he says that Windsor came not in regimentals, but in coloured clothes, but you recollect he could not speak to Despard, and he certainly has mistaken Windsor for Heron. But at all events he could not

recollect Despard, and therefore his account of the matter can hardly be considered as a contradiction. You have, then, Dean and Campbell, two men unconnected with this conspiracy, both of whom positively speak to the fact of this meeting at Whitechapel, between Colonel Despard, Heron, a discharged soldier, and Windsor and Winterbottom, two other private soldiers; and Windsor gives you an account of what passed there. My learned friend says, it is impossible to bring witnesses to contradict them; that is not correct. They might have brought Heron to give his evidence in contradiction to Windsor, but they dare not; and they have given no account, whatever, to explain away the extraordinary meeting between Colonel Despard and three private soldiers, at a little obscure ale-house.

What happens in consequence of this meeting at Whitechapel? at the close, Colonel Despard expresses a degree of disappointment that Windsor had not brought so many men as he promised, and appoints him to meet again at the Oakley Arms, the 16th of November (the night they were taken up) Colonel Despard does go to the Oakley Arms that night, agreeable to his appointment; Windsor also keeps his engagement, but Windsor comes too late; the officers of the Police had interrupted the meeting, and taken Colonel Despard and his associates into custody before Windsor had arrived, but not before you have the character of that meeting sufficiently proved, to shew that it was for the purpose of further considering the plan that had been agitated at the Flying Horse, at Newington, that had been spoken of again at the alehouse in Whitechapel, and renewed and further prosecuted at the Oakley Arms. Emblin was there, how came he there? why, the same person, Broughton, who had introduced him to Colonel Despard, at Newington, invited him to go there, where the matter was to be further adjusted and finally settled. How came Broughton there, himself? why, to meet Colonel Despard. How came Lander there? he spoke also to Emblin, and desired him to go; and he, himself was

there for the same reason Emblin went. How came Colonel Despard there? why, agreeable to his appointment with Windsor, further to consider of that which they had before agitated, as I have stated to you, and which was happily interrupted by the police officers, at the Oakley Arms. At this meeting you remember that Emblin renewed his conversation with Colonel Despard about the taking of the Tower, and the other topics which had been discussed at Newington; and you recollect, that those papers which have been so much commented upon, were found; three of them in the pocket of Broughton, one in the pocket of Phillips, and another lying upon the ground. Upon these papers I shall make an observation or two presently.

This, Gentlemen, is the account of what passed at these meetings, and if it were to rest here, and no other proof had been given, I should with great confidence insist, that every part of this charge has been distinctly and satisfactorily proved. The existence of the conspiracy is admitted; the objects of the conspiracy have been proved by witnesses who stand confirmed in every thing in which accomplices can be confirmed; that is by those who speak to such collateral facts, as might be known by persons not parties to the conspiracy, or present to hear what passed at such meetings. You find, that every thing spoken of by Emblin or Windsor, is in some manner confirmed by circumstances, or witnesses clear of every imputation.

I say, then, if it were to rest here, I should with great confidence submit to you, that this heavy charge against Colonel Despard, has been distinctly and directly proved; but if this were the only account of it we could give; if it began and ended with what I have stated to you; if we could not trace the history of this conspiracy further back than to the meeting at the Flying Horse at Newington; if we could not shew circumstances leading to the declaration of those resolutions, which were without reserve made by Colonel Despard, and the rest of them, at that meeting at the

Flying Horse, you might hesitate how to explain and satisfy your minds, what it was that could induce Colonel Despard to enter into such a plan; where he was to find those resources of strength, that could encourage him to undertake, or enable him to execute the dreadful objects of this conspiracy. But when you look back to what precedes that meeting, when you find from all the witnesses, that as far back as May or June, meetings were had at almost every alehouse in the metropolis; that a plan was formed to unite persons into an association, the objects of which were stated darkly, but sufficiently to enable you to understand their meaning, and to interpret the paper itself; that they were sworn to the engagement contained in this paper, and which, in the form of an oath, binds the parties to secrecy in respect of that engagement; when you recollect and consider this, then every doubt, I apprehend, must be removed.

With respect to the paper, I will leave that very much to your own construction; I will only say this upon it, that it undoubtedly means some material alteration in the State; some restoration of rights not to be obtained peaceably, quietly, or in any constitutional manner, else why make a provision for the families of those heroes who were to fall in the contest? If it did not contain mischief; if it did not contain something seditious and dangerous to the State, why bind the parties to this union, to secrecy? What that is, if there be any ambiguity, any thing that wants explanation, you have it expounded by the best possible mode of expounding any instrument by the conduct and by the declarations of Colonel Despard himself. They meant to obtain an equalization of their rights; they meant to obtain it by force; they swore each other to secrecy, and having done that, they stated what were the specific objects. They must have the Tower; why? because it would afford an arsenal of arms for those who were not armed. They must have the Bank; why? because it would distress and ruin the Country, and would furnish them with that money with which they were to pay their people. They were to destroy the King: and

these are the objects which are almost alluded to in the paper itself; this was the contest in which a provision was to be made for the heroes that fell. For what is an equalization of rights but an abolition of Government, a destruction of the Monarchy, and necessarily of the Monarch himself; that is stated upon the face of the paper, darkly indeed, but it is so expounded by the conduct of these people, that it can leave no doubt upon your minds, as to the true construction of it. Then look to their conduct; they have been busy at these meetings in seducing soldiers; they have been swearing people of every description, and you will find that the most active among them, are the friends of Colonel Despard, the persons taken up with him at the Oakley Arms, the persons with those very papers which were to be the bond of union found upon them. This surely does so connect these men; every part is so consistent, that it can leave no doubt upon the mind of any rational man what their purpose was; their purpose was that which they declare; their means of effecting that purpose, were by the seduction of the soldiers; and when you recollect, that in the year 1780, a rabble, a mob, unarmed and undisciplined, had the uncontrouled dominion of London for three days together, consider what would have been the effect of three minutes triumph of such men as Colonel Despard and his soldiers, united for such purposes, and aiming at such objects as are proved in this case.

But you are told that you are not to believe this charge, because it is proved by accomplices. Now, before I make any observation upon that subject, I think I cannot stand upon better ground than by stating the opinion of Lord Chief Justice Holt, whom I have before quoted; his doctrine is expressly in point to this case, it was upon the same trial that I before mentioned, I shall state it with great confidence, as containing the law of that Court, and I do it with the greater confidence, because I know from a recent instance it has the concurrence of this Court; but as I am speaking in the hearing of the noble and learned Lord, to

whose charge I am alluding, I dare not say any thing more upon that than that I wish upon every account you had been present to have heard it.

Lord Chief Justice Holt, on the trial of Charnock, King and Keys, which was, as I told you, the trial of three persons upon an indictment of High Treason, in what is called the Assassination Plot; and which case was proved principally, if not entirely, by accomplices, and when the objection was made to the evidence, upon that ground, Lord Holt, in summing up to the Jury, states this, and I beg your attention to it, because you will find it in the circumstances very much corresponding with some parts of this case, and in the reasoning applicable to every part of this case; he expresses himself thus: "But then there is another thing that is objected against the evidence, and that is as to the fairness and credibility of it, because the witnesses by their own acknowledgment are involved in the same crime, and therefore cannot be good witnesses against others. Now as to that objection I must tell you first, that witnesses under those circumstances are good legal witnesses, but their credits as in all other cases are left to your consideration."

Now, Gentlemen, observe this, for this was delivered by Lord Holt, containing the sentiments of the very learned Court I described to you. "But secondly, as to the weight of this objection against their credit, you may consider that traiterous conspiracies are deeds of darkness as well as of wickedness, the discovery whereof can properly come only from the conspirators themselves, such evidence has always been allowed as good proof in all ages, and they are the most proper witnesses, for otherwise it is hardly possible, if not *altogether impossible* to have a full proof of such secret contrivances; such discoveries are to be encouraged in all Governments, without which there can be no safety, and though men have been guilty of such heinous offences in being partakers or promoters in such designs, yet if they come in and repent, and give testimonies thereof by discovering the truth, great credit ought to be given to them, for such evidence was ever

accounted good; besides, as to two of them which were the first that discovered, before they were apprehended, or suspected themselves to be in danger, and therefore do not swear to save their own lives, but resolved upon it to save the life of the King."

Now what was the case of Windsor? before any suspicion fell upon him, you find he came forward and gave his evidence, and in consequence of his examination, two other soldiers, Blades and William Francis, were taken up; he charged them with being parties in the conspiracy; they, by their evidence acknowledge the truth of it, confirming, as far as their evidence goes, the testimony of Windsor himself. We have proved in this case, other material Overt-acts; the attempting to seduce soldiers; the swearing in of soldiers; the keeping papers in their pocket with that view; all these have been proved: but I am drawing your attention to this more immediate Overt-act of an attack upon the King's person, and which is completely proved, and is clear of all construction and all difficulty, and as it goes immediately and directly to the point charged in this indictment, I fix upon that Overt-act which is proved at all these meetings, and which, though proved by accomplices, yet is so confirmed by other witnesses and other circumstances, that you cannot disbelieve it. Lord Holt tells you, that their evidence has always been accounted good, and that otherwise it would be impossible to have full proof of such secret contrivances.

Gentlemen, what then is the objection to an accomplice? The objection to an accomplice, as Lord Mansfield stated it, is an objection in the scale against his credit, to be balanced by the matter of his evidence, by the manner of his giving it, by the proof in support of his evidence, and by that which contradicts it. Let us try these accomplices by that criterion. Look to the evidence of Emblin as to the matter of it; have not he and Windsor, persons perfectly unconnected with each other, for they never met before they were at the Flying Horse, at Newington; have not they in the material parts of this case given precisely the

same account? what was the manner of Emblin in giving his evidence? I am sure it was given in that quiet, modest, cautious manner, that entitled him to credit in this Court. He is called an accomplice, I doubt whether that is his description. I think he was a weak man in going twice; but it does not appear that he entered into the conspiracy. But, admitting him to be an accomplice, he speaks to those facts which none other but accomplices can speak to; and in every circumstance in which he can be confirmed by other witnesses, he is strongly confirmed and corroborated. What are the facts which Emblin and Windsor speak to? they speak to the seduction of soldiers; to meetings at the Flying Horse, at Whitechapel, and at the Oakley Arms. Are they not confirmed in all these facts; in the one by the landlady, in another by Campbell and Dean, and in the last by the persons who took Colonel Despard and his associates into custody? What is the account given by Colonel Despard's Counsel? What reason has been assigned by them for his resorting to these obscure places, and living in this low company; they have not attempted to explain or to account for it, it would have been vain to have attempted it, they have been prudent in abstaining from it. But does not this confirm the evidence of the accomplices; and how completely does that evidence stand uncontradicted?

Emblin and Windsor both swear precisely to the same facts: I mean with the variation which is always found in the case of truth. Now, I ask you, what on earth could induce Emblin to invent a charge of a conspiracy; a charge of High Treason against Colonel Despard, whom he never saw but twice in his life, involving himself in the same Treason. What could be his motive for it? None has been assigned; none could be assigned. If a murder or a robbery has been committed, and a suspicion falls upon several, one of the persons suspected, influenced by the hopes of life, or the fear of death, might falsely charge another with that crime, which he himself had committed; but, if no murder was committed, if no robbery had happened, is it pos-

sible that such a perjury could be committed? That Emblin should invent this conspiracy of High Treason to criminate Colonel Despard, and involve himself in the same crime is so unnatural. That Windsor should concur with him in the account he has given is so impossible, that it cannot be believed; and there is no proof or circumstance to raise such a presumption: then look to the manner and the matter of their evidence, and they are entitled, I say, to credit; they speak to those facts which can be known only to accomplices, they must be supported collaterally to entitle them to credit, and in this case every circumstance has corroborated their testimony. The papers that have been produced, the other witnesses that have been examined, and every fact capable of other proof, has been so proved; and although there were sixteen persons liberated at the Oakley Arms, not one has been called to contradict them. There was one circumstance at the Oakley Arms I would just mention; upon their detaining Colonel Despard, he resented it, desiring to know why he was detained there, and said to those who were present—"One and all follow me;" upon which they all went towards the door, obeying his order, and shewing the influence of Colonel Despard over these people.

This is the case alledged and proved against the Prisoner; now let us consider what is the argument that has been urged in answer to it. You are told that independent of the objection to the witnesses on account of their being accomplices, and which I trust I have sufficiently and entirely removed, that this plan is so wild and extravagant that you cannot believe it. The wildness and extravagance of a plan may lead to its discovery and defeat, but by no means disproves its existence: the projects of desperate men are always wild and extravagant, at least they will appear so to men of your description, prudent and careful men, or may be made to appear so by the abilities of the Learned Serjeant who made the observation; but I confess I see nothing wild or extravagant in any part of this plan. Is it wild and extravagant to attempt to corrupt

the soldiers, to seduce the privates of those regiments, which are most immediately about the King's person, from their duty and allegiance; to prevail upon them to turn those arms against the King's life which were entrusted to them for his security, his honour, and protection. The success of the attempt is an answer to the observation of its extravagance; how far indeed their success had gone we know not: if we are to believe Colonel Despard and John Francis, it had been carried full far enough to accomplish every object of this dreadful conspiracy. I hope and trust that that is an exaggerated account; but I am sure that if it be so, it is to the fidelity of the soldier, it is to his attachment to his King and Country, it is to his gratitude to that Public which has upon every occasion recorded his services with honour, and requited them with generosity; it is to that, and not to the want of activity, not to the want of indefatigable pains and industry on the part of Colonel Despard and those associated with him, that this corruption had not pervaded every rank of these regiments. Is it wild and extravagant, conceiving as they did, that they had the soldiers with them, having in view the taking of the Tower and the Bank? Is it wild and extravagant to attempt publicly to assassinate the King? I hope and trust in God, that such an attempt, in every instance as in this, may prove abortive; that the same Providence which has so often averted the blow, will continue to protect a life dear and invaluable to every man who has a spark of public or of private virtue; who has an interest in the welfare of his Country, who has a respect and value for the most moral and exemplary character that ever sat upon our throne. But I ask you whether with these views, and with these expected resources, it is extravagant or wild to make this attempt? I do believe that no event could happen, which would occasion so universal a despondency, so general a panic, distrust, and consternation as that dreadful calamity. I do believe that if men could work themselves up to contemplate that event without horror, to execute that crime without remorse; if having "well weighed

the matter within them, they could find their hearts callous," it would facilitate the accomplishment of the rest of their design; they might avail themselves of the dismay and confusion to seize upon the Tower, to seize upon the Bank, and whatever else of misery or ruin they had contemplated against their Country. In what then consists the extravagance of this plan, but in the extravagance of its cruelty, its heinousness and enormity?

These are the observations that have occurred to me upon this case; and I hope and trust that in making them I have said nothing in which I am not perfectly justified by the facts and circumstances on which I have observed. I am sure I ought not, and I trust I cannot feel any other interest or wish in this matter but that which I entertain in common with you, and with every honest man—a wish that justice may be done; that the innocent may not suffer, that the guilty may not escape; a wish that the Prisoner at the Bar may feel the weight of truth only, and that he may know that nothing can hurt him but his own guilt. This I am sure will be the result of this trial, and the effect of your verdict; and, weighty and important as is the duty you are to discharge, I am convinced that with the great assistance you will receive from the Court, you will be enabled to discharge that duty satisfactorily to your own consciences, and satisfactorily to the Country. A more important trial I believe never came before a Jury; for if the account given by the witnesses on the part of the Crown be in the material parts of it true; if it be true that this conspiracy, with these objects has existed; if it be true that Colonel Despard has taken the active part in that conspiracy imputed to him by this Indictment, and you have heard how that has been proved, and how entirely that proof stands uncontradicted; if this be true, and if he should escape the hand of justice, there is no protection in the laws of this Country for the King's life, none for the safety of the Public; they are both intimately and inseparably connected, and the existence

and the preservation of both must be exposed to the most imminent hazard and danger. I state this, not for the purpose of exciting your feelings, but of engaging your attention. If it were my duty, I could resort to a thousand topics in this aggravated case to excite your horror and indignation, but that is not my duty, and I purposely abstain from it; and indeed, Gentlemen, I feel that if this had been a conspiracy against the life of the worst, instead of one of the best Kings that ever sat upon our throne, in most of the considerations that belong to it, in most of the dreadful consequences to follow from it, the effects would have been precisely the same.

There is one circumstance more I would not pass over in silence, and that is the evidence produced by Colonel Despard to his character; he has brought two of the most gallant men in the world in support of that character. Good God, what a falling off is here! That he who had the society and friendship of Lord Nelson, Sir Alured Clarke, and the good opinion of Sir Evan Nepean, three as valuable and as respectable men as live; that he should quit them, and associate himself with some of the worst traitors (if the evidence be true) that exist; that he should quit the society and pursuits of men of honour, to seek those of low persons at obscure alehouses, living with private soldiers and the most depraved and the worst of mankind, is a part of the case that excites ones regret and pity. There is another part of the case that I would not have ventured to have spoken to, if the Learned Serjeant had not made it necessary. He has told you that Colonel Despard has been confined three years in a prison under a suspicion of treason or sedition; whether that has made him more or less apt to be engaged in this conspiracy, and in the execution of it, you will best judge: I cannot help thinking that the Learned Serjeant has described his client as

——— "A man
"Whom the vile blows and buffets of the world
"Have so incensed, that he is reckless what
"He does to spite the world."

I submit to you, Gentlemen, that all the evidence that has been given in support of the character of Colonel Despard only proves him at one part of his life to have been a respectable man, always to have been a bold and enterprising man, and the rest may be accounted for perhaps by the habits he had contracted during an imprisonment of three years; whether that might not produce feelings of resentment and disappointment, which might work him up to this dreadful resolution, you will best judge, but I do not rely upon it; I only state what I have said, in reply to the observations of the Learned Serjeant; I rely upon the facts which have been proved, and which stand uncontradicted.

Gentlemen, in what I have stated to you, I have been urged by an anxiety only to engage your attention, to beg that of you, in which I am sure I shall not be disappointed, that you will carefully and attentively weigh and consider the whole of this case, and the evidence that has been produced; that evidence will be stated to you with the greatest accuracy, fairness, and perspicuity by the Noble and Learned Judge who presides here, and whose assistance will be a treasure to you upon this occasion, as it will enable you to ascertain the truth, and to administer justice in a trial of the last importance to the Prisoner and to the public.

SUMMING UP.

LORD ELLENBOROUGH.

Gentlemen of the Jury,

The arguments of the learned Counsel, as well as the evidence on both sides being now closed, it remains for me to discharge a duty which I fear may be somewhat irksome and painful to you in the course of its execution, considering the vast quantity of evidence given in this cause, which it will be necessary for me to detail, and to comment upon. Recollecting, however, with what minds and dispositions you must have come prepared for the discharge of your duty, and how little I am sure you value your own convenience and time, when put in competition with the due execution of that duty, I trust you will receive with patience and attention the means it may be in my power to afford you towards the due and perfect execution of it; and which means will consist principally in a correct statement of the evidence itself, and in the application of some observations to it in the course, and at the close of such statement.

The crime with which the prisoner is charged is the crime of High Treason, in respect of which he is charged with three distinct and substantive species and heads of that crime; one of them, viz. that of compassing and imagining to put the King to death, founded upon and couched in the terms of the Statute of the twenty-fifth of Edward the Third, which Statute is declaratory of the ancient Law of Treason as it then stood, as well as introductory of certain new provisions in addition thereto; and the other two species and heads of Treasons, viz. conspiring, compassing, devising, and intending the *imprisonment and restraint of the person of the King, and conspiring, compassing, &c.*

to deprive and depose the King from the ſtile, honour, and kingly name of the imperial crown of this realm, are expressly made such by the Statute of the thirty-seventh of his present Majesty; they were not equally so before: i. e. as Overt-acts of Treason, under the Statute of Edward the Third, is immaterial to consider upon the present occasion, as they are now unquestionably specific Treasons by the immediate letter of the Statute of the Thirty-seventh of his present Majesty. Of each of these several species of Treason, there are eight distinct Overt-acts charged against the Defendant, and the same kind and description of acts are specifically and successively charged and assigned in this Indictment as Overt-acts of each of these three several heads of Treason.

The Overt-acts, or in other words the open deeds, by which the treasonable purposes imputed to the Defendants are alledged to have been manifested and attempted to be carried into effect by them are, First, The conspiring to seduce certain soldiers named in the Indictment from their duty and allegiance to his Majesty, and to unite with the Defendants in a traiterous attempt to subvert the Government, and to destroy the King. Secondly, The conspiring to administer to certain persons oaths and engagements intended to bind them to become members of, and to be assisting in certain traiterous associations and confederacies formed for the purpose of subverting by arms the Government, and deposing and destroying the King. Thirdly, The obtaining, procuring, and keeping in their custody cards and papers containing the form of oaths and engagements to the above effect with intent to administer the same for the purposes above-mentioned. Fourthly, The actual administering of such oaths to certain persons for the same purpose. Fifthly, The meeting, consulting, conspiring, consenting, and agreeing, by laying in wait, and by attacking the person of the King, to assassinate, kill, and murder his Majesty, and threatening, proposing, and consulting of the ways manner and means, and of the time and place of attacking his Majesty, in order the more easily to assassinate and

kill him. Sixthly, The meeting, treating, consulting, and conspiring, with force and arms to attack the Bank of England and Tower of London, and to raise insurrection, rebellion, and war against the King within the kingdom. Seventhly, The meeting, consulting, and agreeing to procure arms, ammunition, &c. in order the more effectually to attack and assassinate the King. The eighth and last Overt-act, consisting in a similar conspiracy to attack the King when he should next go to meet the Parliament; to attack and seize the Bank of England, the Tower of London, and the arms therein; that the conspirators should arm themselves therewith to destroy the King's force, and to stop and detain the mail coaches, as a signal and notice of their proceedings to other parts of the kingdom, and as an incitement to other traitors to raise and make insurrection, rebellion, and war within the kingdom. The principal mischief intended to be effected, and the main scheme and object of the design imputed to the conspirators by this Indictment, is, you will observe, the destruction of the person of the King, his restraint and imprisonment, or his deposal from his royal state and dignity; and all or some of these treasonable objects are stated to have been attempted to be effected by means of the various consultations, meetings, seduction of soldiers, and the like, which I have been detailing to you from the Indictment, and which have been the subject of the evidence laid before you. Gentlemen, before I state the evidence adduced on the part of the Crown, in proof of the Overt-acts laid in the Indictment, which you already sufficiently understand to mean certain open deeds of the party, done in prosecution of the treasonable purposes imputed to him, and manifesting the existence of such purposes, I think it fit to state a word or two upon some of the topics which have been touched upon on the part of the Defendant, as to the quality of the crime imputed to the Defendant, and as to the nature of the proof by which the charge thereof is supported. It has been urged that the crime consists only in words, and that words are not of themselves Overt-acts of High Treason. If it be said that

loose words, referrable to no particular design, words merely calumnious, or seditious words, expressive of an irritated and angry mind, and of sentiments highly indecent and criminal in a subject towards his Sovereign, but words neither indicating or conducing to the execution of any definite purpose of a treasonable kind on his own part, nor persuading or exciting others to concur in the execution thereof on theirs, I readily admit that loose words of this description are not to be considered as constituting Overt-acts of High Treason, and that it would be too much to infer from the random and careless, though highly blameable use of expressions of this kind, so mischievous and abominable a purpose as the destruction of the King. But if words of this kind are used at meetings held for the purpose of forwarding designs of a treasonable nature, and if they are addressed to persons with an intent to excite and to confirm them in the prosecution of measures which have for their declared object the assassinating or deposing of the King by force and arms, and where words are the immediate vehicle by which Treasons such as these are communicated, and by which they are and ought to be carried into full completion and effect, it never was, since the promulgation of law in this land, by any one Lawyer, ever doubted that words of this nature, uttered for such a purpose, at such meetings and consultations, and being themselves the very instruments and means of exciting other persons to take part in measures which had for their end and object the personal destruction of the King, were in their very nature and essence the clearest and most absolute Overt-acts of High Treason that can be stated. This point never yet admitted of a doubt; it never was questioned—it never can be so.

Gentlemen, another subject has been discussed before you, respecting the credit due to the testimony of accomplices, which is certainly a matter of nice and delicate consideration. That an accomplice is a competent witness, and that, if he is believed, you may, upon his evidence, found the most important conclusions, there can be no doubt. You see him stand before you

sworn as a witness: if he had not been competent, that is, if he were a person who stood under such circumstances as to be wholly unworthy of credit, it would have been a dereliction of duty on the part of us, the Judges, who now sit here; it would have been a gross dereliction of duty in those, who have, on former occasions, occupied similar seats in other Courts of Criminal Justice, when witnesses of the same description have been called before them, not to repel such witnesses at once from the book on which they were about to be sworn, and to tell the Country that they ought not to be received; but they are and always have been received. Their testimony, however, is, at the same time to be received and acted upon with an attentive and scrupulous consideration of its merit and value: in each particular instance, they come sullied with some degree of contamination, (not all, indeed, in an equal degree,) contaminated, however, in some degree, by a participation in the very crime they impute to others; but the witness who comes thus prima facie contaminated, may be so confirmed by the consistency and clearness of his own narration, and still more by its conformity to and coincidence with the substance of the testimony delivered by others, not likely to have conspired with him in the crime itself, or to have had the means of concerting and colluding with him as to the matter of his testimony, and still more, if such a witness is found to be confirmed by a variety of collateral and independent facts and circumstances, involving the names, characters, and transactions of multitudes of persons, and if, at last, the whole of his testimony should appear to be broken in upon by no one fact of contrary testimony, during a discussion and hearing occupying so many hours as this has done, and in the course of which the names of so many persons have been brought forward as actors in very extraordinary scenes, described as having passed in so many places, I say, if the entire narrative as to persons, places, and things, not in itself inconsistent or improbable, should ultimately appear to be falsified in no instance whatever, in such

case, a person originally standing under some degree of doubt and suspicion from the nature of his situation, and from the quality of his testimony, becomes, at laſt, entitled to be believed in the fullest manner, accredited and confirmed as he then is in the matter of his testimony, by such a body of collateral evidence, as I have, by way of supposition, assumed, and you may probably consider as having been in fact given in the present instance. In the case of Charnock, one of the conspirators in the assassination plot in the time of Wiſliam the Third, which has been cited to you by the Counsel for the Crown, Lord Holt says, that " conspiracies are deeds of darkness as well as of wickedness, the discovery whereof can properly come only from the conspirators themselves;" and that the evidence of accomplices " has always been allowed good proof in all ages, and they are the most proper witnesses, for otherwise it is hardly possible, if not altogether impossible, to have a full proof of such secret contrivances," and, he adds, " such discoveries are to be encouraged in all Governments, without which there can be no safety." Besides the connection and communication with the Treason, it may be different in different individuals; in some it may be such as only to constitute a case of Misprision of Treason, and which possibly may be the proper description of crime applicable to the case of Emblin, or it may be Treason, if the concealment of and apparent concurrence in the acts and proposals of others was such, as to afford, on his part, actual treasonable measures proposed. Such conduct would, in that case, implicate him in the crime, as a principal in the High Treason, and not merely as a party guilty of Misprision, by concealing the objects of a traiterous conspiracy, after full knowledge of them.

But there is another class of persons, which cannot properly be considered as coming within the description, or as partaking of the criminal contamination; accomplices, I mean persons, entering into communication with the conspirators, with an original purpose of discovering their secret designs, and disclosing them for

the benefit of the public. The existence of such original purpose on their part, is best evinced by a conduct, which precludes them from ever wavering in or swerving from the discharge of their duty, if they might otherwise be disposed so to do, as in the case of Windsor, who bound himself to his duty by an early communication to Bownas, and received from him directions as to the steps which he should afterwards pursue, if he entered into and continued in the apparent prosecution of the purposes of the conspiracy; with this view and object he is not an accomplice, although, perhaps, a great degree of objection or disfavour may attach to him on other grounds, for certainly no person of very delicate feelings, (however necessary it may be in some cases,) would choose to go on from day to day, apparently forwarding the purposes of a conspiracy, in order that he might afterwards disclose it and bring the parties concerned in it to justice; but still, whatever may be the merit or demerit of this species of conduct on other grounds, it is not taking the fact, as Windsor has stated it, the case of an accomplice.

Having made these observations to you, as to the nature of accomplices, and the circumstances under which accomplices may justly be considered as credible witnesses, and which observations you will of course apply, as far as they are justly applicable to the witnesses in question, believing their story, if it is consistent and probable in itself, and confirmed by the testimony of others, and still more, if much of that confirmation be derived (and it will be for you to say whether it is not so in the present instance,) from pure and unsuspected sources, and disbelieving it if it be inconsistent, improbable, and unconfirmed by other evidence. I will once more state to you, that the principal Overt-acts to which you will direct your attention are these — meetings and consultations; the seduction of soldiers and the administering of unlawful oaths, for the purpose of carrying into effect a projected destruction of the person of the King, or his personal restraint and imprisonment, or the deposal of him from his royal state and dignity, or of all these trea-

sonable objects collectively. It is for you to consider whether the prisoner has been concerned as a party in all or any of these traiterous acts.

The first witness called before you is John Stafford, Chief Clerk to the Police-office at Union-hall; he says, that he was in that character, on Tuesday, the 16th of November, directed to go to the Oakley Arms, in Oakley Street, in the parish of St. Mary Lambeth; that he went about nine in the evening, with John May and Richard Bethel Lloyd, two of the officers, to whom a warrant was directed; that they met the Bow-street officers, whom Sir Richard Ford had directed to attend upon that occasion, by the wall of the Asylum. He says, we went together to the Oakley Arms; Lloyd, with a party, attended in a room below stairs; Rivett, May and I went together into the club-room up one pair of stairs; when we went in we found about thirty persons there; Thomas Phillips told me his name was Jackson; he afterwards said it was Phillips. There were William Lander, John Lambert, Abraham Bailey, John Doyle and John Wood. I asked Wood where he lived, what business he was of, and whether he was a soldier; he said he was not now a soldier, he had belonged to the 10th regiment; he said he was a carpenter and not a soldier. John Francis, Thomas Newman, Daniel Tyndall, Edward Marcus Despard, Samuel Smith, Thomas Broughton, John Emblin and John Connell were also there; Graham and Macnamara, who are named in the Indictment were not there. They appeared mostly to be working men, some of them soldiers. John Francis, Newman and Wood were soldiers; none of them had their regimentals on; one had a sort of regimental jacket; I went to the fire place and looked about; I desired them to keep their seats; they were a little alarmed; we went in quick; I desired the officer to search them; I saw May find a paper upon Thomas Phillips. One of the patrole came up and said, here is a man who will not be searched; I was shewn to Despard as that person. Rivett pointed out the Prisoner, and said, that

is Colonel Despard; no other person there had the appearance of a Gentleman but him. Colonel Despard asked what was our authority; I told him we had a warrant; he asked to see it; I desired May to produce it. The warrant was held out to him where the signatures of the Magistrates were. It was signed by Mr. Carpenter Smith and Mr. Broadley. Colonel Despard seemed rather angry, rather indignant. I searched him minutely; I found nothing upon him; he had a silk umbrella in his hand. "Gentlemen, you may recollect that this umbrella forms a part of the description of Colonel Despard, wherever he is proved to be present in the course of these transactions. It is a silk umbrella, with an hooked yellow stick; an umbrella that is also used as a walking stick." I saw another paper in the hands of Samuel Taunton, one of the patrole; I did not see where it came from. I did not see any more found. I did not see Broughton searched. They were all taken into custody. I continued at the public-house till they were all sent away. I sent for coaches, and sent officers along with them to places of security for the night. After they were gone, Thomas Windsor, as I since find him to be, came there.

This Thomas Windsor, who, it is now suggested, wishes to throw off from himself the blame of this matter upon Colonel Despard, in order to screen himself, was not the immediate object of any blame, or stood in need of any screen, for you observe he was not taken with the party; he came afterwards, and from the communication made to this witness, and his coming to the police-office the next morning, seems to have put himself in the way, and to have offered himself voluntarily to make that information and discovery which he thought it material to make, and which, if you believe his story, he originally intended to make, in consequence of his communication to Mr. Bownas. Stafford says, "I saw him come in dressed like a bricklayer or plasterer; there appeared to be some lime about him. He went into the tap-room, sat down, and called for a pint of beer

and a pipe of tobacco. I had a long conversation with him. I desired him to attend at Union-hall the next day, and, in consequence of that conversation, I took down his name and his place of abode, which, he said, was in Weymouth-street, Newington; he said he was a bricklayer by business and a soldier in the Guards. He attended the next morning before the magistrates by my desire; he was not taken up; he was examined, and produced another paper, similar to those found at the Oakley Arms; it is now marked No. 2. He said he knew the Colonel; he knew James Sedgwick Wratten, John Francis, and John Wood: then it was that Wood admitted he was a soldier; John Francis, at the same time, admitted himself to be a soldier in the Guards, in Colonel Lambert's regiment, having, at the Oakley Arms, called himself a shoemaker: he also knew Emblin, he said, and Samuel Smith. The Prisoners were severally committed. He thinks the Parliament met that very day, the 16th of November, and the King went to the House the week following, on Tuesday, the 23d of November.

The Oath, No. 1, was then read.

" Constitution and Independence of Great Britain and Ireland; an equalization of civil, political, and religious rights; an ample provision for the families of the heroes who shall fall in the contest; a liberal reward for distinguished merit; these are the objects for which we contend, and to obtain these objects we swear to be united. In the awful presence of Almighty God, I, A. B. do voluntarily declare, that I will endeavour, to the utmost of my power, to obtain the objects of this union, namely, to recover those rights which the Supreme Being has given to all men; that neither hopes, fears, rewards, nor punishment, shall ever induce me to give any information, directly or indirectly, concerning the business, or of any member of this Society, or of any similar Society, so help me God."

Gentlemen, this paper is found in the room; it will presently be for you to say, from the evidence which

William Francis has given, whether the Prisoner is not immediately connected with a similar use of this paper, which appears to have been made by a variety of other persons, whose names occur in this indictment; and whether he is not, from the circumstance of his acting and co-operating to the same end, his meeting for the advancement of the same purposes, namely, to seduce soldiers from their allegiance and duty to his Majesty, and to associate others to the treasonable objects of that paper (and one of the Overt-acts charged is, you will recollect, the administering this kind of oath,) privy to and a party in all the treasonable objects, which that paper is calculated to promote. The oath, in its terms, is of the most dangerous tendency, and has a most mischievous object in view. Equalization of civil and political right, cannot mean an equal right to the administration of law; that right every one fully enjoys at present: an equal right to the enjoyment of unequal portions of property, according as accidental circumstances may have allotted them to us; that right is also fully enjoyed at present: but it seems clearly to mean, the forcible reduction to one common level of all the advantages of property, of all civil and political rights whatsoever, and, in short, introducing amongst us that mischievous equality, which, as far as it is attainable at all, has been considered, and, perhaps, very justly, as the bane and destruction of those, who have endeavoured to establish it in another Country. "An ample provision for the families of the heroes who shall fall in the contest." This contest does not mean a struggle for reform by peaceable and ordinary means, and to be effected in a Parliamentary way by application to the Legislature. How can there be any heroes to fall in such a contest? It certainly points at a bloody conflict by arms, as the means or the result of that struggle for the equalization of civil, political, and religious rights, which it labours to promote by the abused sanction of an oath.

Having stated this equalization of rights as the ob-

ject of the confederacy, and of the combined efforts to be made at the probable expence of life; it proceeds to bind the parties, taking it to the most inviolable secrecy as to the objects and proceedings of that society, and not to give any information respecting them, or the members of that, or any other similar society. The means and the end are in this case of the same malignant quality and description, and would, if no more appeared, cast the darkest shade of criminality over all who should be found taking a part in the administering of such an oath; but if it should appear, that the persons actively concerned in promoting the use and adoption of this oath, are at the same time following up the mischief of it by practical endeavours to band together persons in a Society, and league to stop the King in his passage to the House, to seize his person or to destroy it; and if you can find by any express and unequivocal declarations on his part, that the prisoner, Colonel Despard, acceded to these designs in their fullest extent; if he is found himself to have issued some of these papers (which he must be presumed to have done with knowledge of their import and effect, unless the contrary is shewn by him; but which has not been attempted) if these papers were found in the room at the Oakley Arms, at an assembly of which he formed so principal a part, it does form altogether a strong body of proof, if believed that he co-operated and acted with the persons so assembled, and others, in the execution of such a design as the oath indirectly indicates, and his own conversation and language, if believed, expressly and directly declare the oath and the assembly, certainly reflect a strong degree of credit upon the testimony which imputes to him expressions which, if believed, establish the clearest Overt-acts against him of compassing and imagining the death of the King.

Charles Bacon, one of the patrole belonging to the Public Office, in Bow-street, says "he was present with Stafford and others at the Oakley Arms; he went up into the room, there were as many as thirty persons, or more, the Prisoner was there; there were all descriptions

of persons there, but no other person was there who had the dress of a Gentleman but Colonel Despard." It has been pressed in argument, and fairly pressed, that if Colonel Despard was there for any other purpose than that which the prosecution imputes to him, it became him to assign and to prove the existence of such other purpose. Now, in the course of what has been urged for him, have you had any reason assigned, or attempted to be assigned, why he should be found at all or any of these meetings, with persons of this class and description. The witness proceeds, "I searched Thomas Broughton: I found three printed papers upon him; I put my name, Bacon, upon the back of those three papers." Gentlemen, I need not trouble you with a recital of their contents, they are the same as the other I have read to you; they were printed in a very bad type, and do not appear to have been printed at any printing press, but rather seem as if stamped by separate unfixed letters, two or three at a time; he says two or three officers were sent out to get coaches. Colonel Despard was walking up and down the room, he addressed himself to the company in the room, and said, "*he wished to know why he he was detained there?*" and said, "*one and all follow me*;" he went towards the door, and they followed him. Here the Prisoner seems to address, direct, and give orders to them as a Commander, and they are obedient to those orders; for he goes to the door and the rest immediatly rise and follow him. The witness says, "One of the officers went down out of the room, and desired some of the patrole to come up; they came up into the room."

Then numbers 2, 3, 4, and 5 of these papers were read and compared with number 1, and they all agree.

John May, another police constable says, "I went to the Oakley Arms on the 16th of November, I went up with Stafford into the one pair of stairs room; I searched one Phillips, otherwise Jackson; I found a paper in his left-hand pocket (number 1.); I know Colonel Despard, he was in the room when I went."

Then he repeats the names of the persons as described by the former witnesses, and which it is unnecessary for me to repeat.

Samuel Taunton, a police constable, says, "I went to the Oakley Arms on the 16th of November, in the evening, with Stafford and the other officers; I went up stairs, I believe there were twenty-eight, or twenty-nine persons in the room; I searched a person of the name of Magree or Magrah, whilst I was searching him, I saw Joseph Hannah, one of the officers, pick up a paper from the floor, under the the bench, exactly under where Magrah was sitting before I searched him; Joseph Hannah gave me the paper immediately, and I put my name on it, I marked it No. 6." This paper was the same as those before read.

Joseph Hannah, a police officer, says, "I attended with the other officers at the Oakley Arms, on the 16th of November; I found a paper under a stool, a man was sitting near there who has been since discharged, I looked it over and gave it to Samuel Taunton." Gentlemen, the discharge of the other persons has been observed upon; but, in answer, it has been said by the officers for the Crown, that not having evidence that these persons had attended at any prior meeting, and not being able to make out a case which in their apprehension would warrant the putting of those persons upon their trial, that they had dismissed them; and in so doing the officers of Government certainly did what was not only best in respect of the persons so discharged, but most advantageous to the present Prisoners, who have had the opportunity thereby of producing so many witnesses to the innocence of the objects of the meeting, if they had chosen so to do, and had thought it for their interest so to have done; none of these persons, however, have been called before you as witnesses by the Prisoner.

John Rivett, one of the constables belonging to Bow-street office, says, "I was at the Oakley Arms on the 16th of November; I saw Colonel Despard after being there a little time; I knew him before."

The next witness is a very material one, and upon

whose testimony there has been a great deal of observation.

Thomas Windsor says, "I am a private soldier in the grenadier company of the third battalion in the first regiment of the Guards; I know Colonel Despard; I know John Francis, who is one of the persons indicted. In March last I was with my regiment, at Chatham; soon after their return I received some printed papers from John Francis;"—Gentlemen, you will attend to this;—"I delivered some of those papers to Mr. Bownas, of the Transport Office, or the Agent Office. I communicated to him how I had received these papers; I left one in his possession; I received advice from him what conduct I should hold as to the persons I received them from." You observe he communicated with Bownas both as to the papers themselves which he received, the manner in which he had received them; and took his advice as to the conduct he should hold upon the occasion. John Francis said, "the object was to unite ourselves to overturn the present tyrannical system of Government, to unite ourselves in different companies, and to get possession of arms." John Francis applied to Thomas Blades, of the same company, and Blades was after that at a meeting held at a public house at St. Giles's;—"When Francis offered me the printed card, which was an affidavit, he bid me read it and kiss it; the first act respecting the cards and giving me some, was swearing me in; this is the usual mode of swearing in soldiers to be of this conspiracy. If the soldier to be sworn cannot read, the person bringing him reads the oath to him, if he can, if not some other person reads it to the soldier to be sworn, and then he kisses it. About a week after I was sworn in Francis delivered me some other cards (one of which I delivered to Mr. Bownas) to distribute to whom I thought proper; he delivered them to me as to a person capable of the command of a company; one of the cards was, I believe, that on which I was sworn. Meetings were held afterwards at the Brown Bear, in St. Giles's, and at the Running Horse,

in St. Giles's; from sixteen to twenty, or twenty-five persons used to meet at those houses, principally Irishmen of a low class—labouring men. These meetings were held every week. There was a resolution come to upon the motion of a man of the name of Mack, as we called him, but his proper name is Macnamara, he proposed, at the meeting at the Running-horse, that we should change the public houses of meeting as often as possible, in order to avoid detection; his advice was adopted, and they afterwards met at the Bleeding Heart, in Charles-street, Hatton-garden; I attended at that meeting, John Francis was there; Thomas Broughton accompanied me to one of these meetings at the Bleeding Heart; there were about twenty-five persons attend-there;"—If the same persons did not always meet at these places, the conspiracy must have diverged and extended itself widely; twenty-five at one meeting, and allowing for a given proportion of alteration in the persons present at other meetings held at places considerably distant from each other, the gross number of persons implicated in this dangerous conspiracy would run to a considerable multitude;—"the business there was to unite ourselves, and to raise subscriptions to pay delegates to go into the country, and to pay the expence of printing these affidavits, to overturn the system of Government, and to destroy the Royal Family; these were mentioned in general as the objects of our meetings:—there were ten men in each company." Then he tells how these societies were distributed, and how the basis of that army was laid, which when afterwards fully combined and formed, was to execute these mischievous purposes to which their attention was, you will find, afterwards more particularly directed. "There were to be ten men in a company, and when they amounted to eleven one of the eleven took the command as captain of another ten, if he raised the number himself; the Society divided itself into different divisions, the divisions were not fixed as to any particular number. There was a division in the Borough, one in Mary-le-bone, another division in Spital-fields, and a division from Blackwall, and upwards towards

the City. The oldest captain of fifty was to have the command of fifty, he was called colonel of that subdivision. John Francis and Macnamara told me they should appoint me as colonel of the Borough division; they called themselves colonels under the head colonel or commander in chief: the Spread Eagle, in Mill-lane, is a house for a meeting of one of the subdivisions. I know James Sedgwick Wratten, who is indicted; the persons who composed the society in Mill-lane were chiefly persons discharged from the navy, or people used to the great gun exercise; Wratten called himself colonel; the Hoop and Ram, in the Mint, in the Borough, is the house where Wratten held his division and assembled his people. I know the Oakley Arms; I attended there on Broughton's summons; it was on a Sunday, about seven or eight weeks before I gave my evidence; there were Arthur Graham and William Lander there, and to the amount of about half a dozen more; nothing particular was done there; Broughton and I went to a man of the name of Hutchison, on Lord Mayor's day; we were together at the Oakley Arms, and the son of the man went up stairs, and Broughton was called out to the door to me. The room was almost full, I did not go in, there were about thirty there; I had been at a meeting at the Windmill, in Windmill-street, and looked in at this place on my return. Broughton said, on the 9th, that they had gathered fifteen shillings and sixpence, and it was to pay for delegates going into the country, and to pay for some more of the affidavits being printed; Broughton produced some of these affidavits, I took one, I gave him a shilling for it; there were about sixteen at the Windmill, in Windmill-street, and thirty at the Oakley Arms; the business transacted was the same as at the other meetings—encouraging people to get as many recruits as they could, asking whether any members would take a card and bring men, and cards were produced for the purpose of furnishing those who were disposed to take them. John Macnamara was at the meeting in Windmill-street; when the cards were printed, they were to be

distributed in the country by the delegates, who were appointed for that purpose. Broughton said every person must pay a shilling for his affidavit, and what was more than was expended in printing was to be paid to the delegates. I was at a meeting at the Hoop and Ram, in the Mint, a fortnight or more before the meeting ing on Lord Mayor's day. The same plan and the same object was pursued at all these meetings, there was no difference; Broughton was present there, Wratten was in the chair; John Wood, a soldier of the first regiment was there; Magrah, Newman and John Blades were present, and several other persons. A meeting was held at the Bleeding Heart, about six weeks before the meeting at the Hoop and Ram, in the Mint, that was on a Sunday evening. There was a meeting appointed at the Bell, in Tower-street; I was ordered to attend, but it being in the time of evening service the landlord of the Bell would not let us in; we went to the Canteen, the suttling house in the Tower, they call it the Stone Kitchen; this was on a Sunday, about three weeks or a month before Lord Mayor's day; there might be about twenty or twenty-five met in Tower-street, when they found they could not get into the Bell, in Tower-street, about thirteen or fourteen went to the Tower, the rest dispersed; they were planning that some of them should go down to Woolwich, to the Warren, to try to get some people belonging to the Warren to unite with them. On the 12th of November,"—These later dates are material for your attention; indeed all that passed upon the 12th, the 15th, and the 16th of November is particularly material.—"On the 12th of November I was at work at No. 16, in West-Street, West-Square, setting up a copper; Broughton called upon me there, he said, 'Windsor, come with me to the Flying Horse, in Newington, I will introduce you to good company.' The Flying Horse was a House I used, where I had my regular beer from, I told him I could not neglect my business, that I had a wife and family to maintain; he said, 'Damn you, you must neglect your business, I neglect mine.' I went with him there; I went into

the tap-room; Broughton said don't stop there, come along. Then I followed him into the parlour; I found a Gentleman there who called himself Colonel Despard; the Prisoner is the person." This is the first time this witness speaks to the presence of the Prisoner. He says "the Prisoner at the bar was then a stranger to me. Broughton said, that is Colonel Despard. I made my obeisance to the Colonel, and took my seat. Emblin was there at the same time, a person of the name of Samuel Smith, and Arthur Graham. Broughton told Graham that was Colonel Despard. Graham and Colonel Despard fell into conversation for some minutes, and then Emblin entered into conversation with Colonel Despard." You will see how his account tallies with the account given by Emblin afterwards, respecting this meeting on the 12th of November, and the conversation he there had with Colonel Despard; and you will also remember that some of the circumstances which are very material, both in the testimony of one and the other, are overheard by the landlady, who states herself to have overheard a most important part of this conversation. The witness proceeds. "I did not hear the conversation; I saw Graham offer a piece of money to Colonel Despard, which he refused. Then Graham said, you shall have something to drink then, and he ordered a shillings worth of brandy and water. I heard Emblin recommend to Despard that there ought to be a regular organization in London. Despard said, no; a regular organization in London was dangerous, as it was under the eye of Government. He said a regular organization in the country was necessary, and he believed was already general. He said the people were every where ripe, and anxious for the moment of attack; and I believe this to be the moment. They are ripe, particularly in Leeds, in Sheffield, in Birmingham, and every capital town in England."

Now, Gentlemen, if you believe this witness, or if you believe the evidence of Emblin, or if you are not disposed to believe either of them without confirmation, if you believe the landlady who overheard those expressions about his heart being callous, you will con-

sider how it is possible to ascribe to these words any other interpretation and tendency, than that which is ascribed to them, when they are stated as Overt-acts of High Treason upon this record. Colonel Despard says, "I have walked twenty miles." The other witness to this conversation varies the expression a little, and says, "I have *travelled* twenty miles to-day, and the people are every where ripe where I have been. He said the attack was to be made on the day his Majesty should go to the House, and his Majesty must be put to death. That the mail coaches were to be stopped as a signal to the people in the country, that they had revolted in town;" that was principally what he said at that moment. In the course of the evening he afterwards said, "Windsor, Wood has mentioned you to me. Broughton frequently called me by the name of Windsor; he told me he had formerly heard of me from Wood." And considering that Wood appears to be very intimate with Colonel Despard from the whole of the evidence here given, it is more natural that he should unbosom himself thus, than if he had been conversing with a man who did not come accredited to him by the previous recommendation of a person in his confidence. Despard said, I should be glad if you would meet me on Tower Hill on Monday morning at half past eleven o'clock, and bring with you four or five intelligent men, to consult on the best method of taking the Tower, and securing the arms. I promised to meet him there. He said afterwards, at the time he was saying the people were ripe, *I have weighed the matter well, and my heart is callous*; this was after he said his Majesty must be put to death. Graham paid for the brandy and water; Emblin gave the girl that came into the room two pence or three pence." This circumstance is confirmed by the evidence of the landlady and Emblin; "and Emblin said he would have a kiss when he came again; we were there about two hours and a half; he said an organization would be necessary. On Monday, the 15th of November, I met Colonel Despard at the Tiger, on Tower Hill; I took Winterbottom there according to an appointment made the Friday before. I

was there at the time appointed, which was half past eleven; the Colonel came about five minutes before twelve. The Colonel came alone, I and Winterbottom were in the tap room when he came. The Colonel beckoned me with his head to go out; in consequence of this I did go out; there were four or five soldiers in the tap-room; he said, Windsor, do these people belong to us. I said only Winterbottom belongs to me, I said yes first of all that they did belong to us, but in fact only Winterbottom belonged to us. He said, bid them come along with me. I said there is but one I can depend upon, that is Winterbottom. Says he, do you take one direction, and I another, as you are well known and in your regimentals, and meet me opposite Whitechapel Church. Winterbottom, I, and the other soldiers had our regimentals on. I returned, and went with Winterbottom opposite Whitechapel Church; the Colonel walked gently before us till we came to Whitechapel Church; he bid me go to the opposite house, pointing to a public house the Two Bells, and said he would go and find a man who could give him some information respecting Lynch, who was a soldier, who had been in the third battalion of the first regiment, but was then discharged. I went into the public house; he asked me if I had money, I said enough to buy a draught of porter. I remained half an hour before the Colonel came; he brought one Herron, a discharged soldier of the first regiment of guards. The Colonel said he brought this man with him, he could not find any thing of Lynch; he believed Herron had seen Lynch the week before, and he believed him to be still in the regiment. I was desired by the Colonel to enquire after him at the Flying Horse on the Friday evening, and the Colonel said I might trust him with any secret I had. He said this to me, having beckoned me out of this house the same as he did at the former house. We walked up and down Brick-lane; Winterbottom, Herron, the Colonel, and me. While we were walking there, the Colonel said, Windsor, we are deceived as to the number of arms in the Bank; there are but six hundred, and they have taken the hammers off

to render them useless, as they must have been apprised of our intention. We then went to the Coach and Horses, in Whitechapel; Colonel Despard, Winterbottom, Herron, and myself." This is a place where there were other persons present, where you recollect that the landlord comes in, where there was a soldier of the name of Dean, and another soldier of the name of Campbell. This is a case in which the story is capable of receiving some confirmation, and if it does so in this instance from the other witnesses who are capable of giving any account of the same transaction, it certainly accredits to a considerable degree the evidence of this person, even if he had stood more directly before you as an accomplice than he does, considering he has stated in effect, that he entered into this business with an original purpose of discovering it, and that he did so to Mr. Bownas at the instant he entered. "We then went to the Coach and Horses, in Whitechapel, Winterbottom, Herron, Colonel Despard, and myself. We had two pots of porter and some bread and cheese; a twopenny loaf and a quarter of a pound of Gloucestershire cheese; the Colonel gave the boy money to buy the bread and cheese. The Colonel said to me, Windsor, do you know the two soldiers. There were two soldiers in the same box at the top of the table. I said I did by sight, but not by name. He said, I believe they belong to us. He said afterwards, I believe Windsor, his Majesty must be put to death, and the people will be at liberty; he did not say this loud enough for the soldiers to hear; he spoke to me privately; he said he would make the attack himself on the day his Majesty went to the House. If he could get no assistance from this side the water, he said he would do it with what forces he could collect from that side of the water; thereby distinguishing it from the Borough division, which was on this side of the water. The 24th of November was then understood as the day." I think it must be a mistake, for the 23d, on which his Majesty was to go to the House, as it was to be the Tuesday, and the Tuesday fell on the 23d. "There was a new appointment made by him; Colonel Despard asked me

to meet him on Tuesday night;" you recollect the time of his meeting him at Whitechapel at several different places, was on Monday the 15th. He made an appointment for Tuesday night, the next night, for me to come with seven or eight intelligent men to consult on the best method of attacking the Tower and securing the arms; we were to meet at the Oakley Arms, Lambeth. I told him if he shewed himself at different meetings, people would be satisfied when they saw there was such a person as him at the head of them. Colonel Despard paid for some refreshment we had, and then we parted; I parted with the Colonel about a quarter before two; I saw Wratten and Wood in the course of that same day: Wood said "he would post himself sentry over the great gun in the Park, and load and fire it at his Majesty's carriage as he was passing to the House; it might be his duty to be on that guard." How he should say that he could secure to himself the opportunity of being in that situation on that day, seems rather extraordinary. I should suppose it is not quite in the power of a soldier to choose any particular guard he pleases at a given time, particularly such a time as that, I presume it does not depend upon himself whether he will be posted in a particular station as sentry, but that his place is assigned to him in the course of duty by some of his superior officers. Whether this, supposing it to have been said by Wood, was the effect of his own wild imagination on the subject, or whether he had really any means of obtaining that station, we are wholly ignorant.

He says, "I went to the Oakley Arms to meet the Colonel according to his appointment; I arrived at about half past nine, or a quarter before ten; I found they were in custody when I came there. I saw Broughton go away whilst I was there; I went into the tap-room and called for some porter; I saw Mr. Stafford, and entered into conversation with him." In this he is completely confirmed by Stafford. There certainly was nothing that prevented Windsor from going away after he found what was done with the persons assembled there if he had chosen so to do, and therefore the

conversation he held with Stafford, was a voluntary one on his part. He says, "I began the conversation with him, and communicated to him that I was acquainted with the transaction that related to that night's business. Stafford mentioned an hour for me to be at Union Hall; a quarter before eleven; I kept my appointment. I never saw Emblin till the time I saw him at the Flying Horse; I am not certain whether he was in the room when I first went in, or came in afterwards." The card being shewn him, he says, "a card similar to that is what I delivered to Mr. Bownas." That is the card marked No. 7, which contains the same sort of oath printed on a card, and not in the bad way of printing in which it appears upon the paper.

Being cross-examined, he says, "I have been a soldier eleven years; I am twenty-five years old; I know Blades belonged to the conspiracy from about three weeks after our return from Chatham, which was the latter end of May, or the beginning of June. John Francis swore Blades in. I took one man with me to the Oakley Arms on the 16th, of the name of James Mahon, a labourer, who said he had been united in Ireland. He was my labourer; I might invite others to go there that night." It seemed to be insinuated in the cross-examination, as if he had been endeavouring to lead other persons into the mischief who had not been in it before; but he says they told him they had been associated in Ireland. He says, "I am not acquainted with any other persons who had not attended the meeting, whom I asked to go there that night. I asked them to make them believe that they were my own party, for my own safeguard."

Upon being re-examined, he says, "I wished to persuade one Mahon, and one Marney an Irish labourer, to go. They had told me they were united Irishmen; I was ordered to bring those people there. Mr. Bownas told me to keep an eye upon these people, and put myself as forward as possible." So that you see he pursued those measures in consequence of the advice he received from Mr. Bownas, when he first communicated to him that he had received the card, and his subsequent

conduct was, as he represents, in consequence of the suggestions and recommendation of Bownas.

William Bownas is called to confirm Windsor as to this particular. He is an army agent, and lives in Derby-street. Being shewn a card, he says, "I believe I received this card from Windsor. I had a conversation with him about a card. I certainly gave him advice as to his conduct, when he mentioned that such a meeting as this existed. It was about the month of July last; I have no doubt it is the same card."

William Campbell is called to confirm the testimony of Windsor as to his being at this house in Whitechapel, on the 15th of November. He says, "I was one of the guards stationed in the Tower; I know the Coach and Horses, in Whitechapel; Charles Dean another soldier, who is quartered in the house, was with me. I was there about two o'clock; we sat in a box in the front of the fire in the tap-room; four persons came into the tap room, two soldiers in regimentals, and two persons in coloured clothes; one was better dressed than the other, and had an umbrella in his hand. The better dressed man was the Prisoner at the bar; Windsor and Winterbottom were the soldiers; he and Windsor were discoursing together; I did not hear what they said; they asked a little boy if they could have bread and cheese, he said they did not sell bread and cheese, but they could have some below at the shop. Some was sent for and brought; we were asked if we would have any bread and cheese; we said we had just dined, and would not have any. I did not know the fourth man. The other man in coloured clothes asked after several men said to have been in the regiment." (This applies to Lynch, who was before described as having been in in the regiment and discharged.) "The man who was in the coloured clothes, said he had been in the regiment, but had been discharged. They went out together; the two soldiers went up Whitechapel towards the Tower, and the two Gentlemen went down Whitechapel." This witness distinctly confirms Windsor as to the fact of his being there, having bread and cheese there, his being there with a Gentleman who had an

umbrella; he did not know the person of Despard, the whole of the party are as Windsor describes, so that it is impossible for any one to receive more direct confirmation than Windsor does from Campbell.

The next witness, Charles Dean, the other soldier, says, "I was in company with Campbell on the 15th of November at the Coach and Horses, about half past one. Campbell and I were sitting together in a box. I saw Windsor and Winterbottom come into the house while I was sitting there, they were in regimentals." He looks at the Prisoner, and recollects him to have been one, and he says there was one man besides. "The prisoner had an umbrella; they called for bread and cheese. The master said he did not sell any. The prisoner gave the boy money to fetch bread and cheese; when the bread and cheese came, the Prisoner asked us if we would have any; we told him we had just dined; they called for some beer; they had two pots; they asked us if we would drink; we said we would drink once a-piece with them; the Prisoner paid for it, then they went out together. They went in different directions; the soldiers towards the Tower, the other men went down Whitechapel." In all these particulars he agrees distinctly with the testimony of Windsor.

Joseph Walker is next called. He differs in one particular only, that he supposes Windsor to be the man in coloured clothes, in the other particulars he agrees with them. He says, "I keep the Coach and Horses, at Whitechapel; Dean was quartered at my house in November last; Campbell was not. I remember Dean and a person being with him, a soldier; I should not know that man, they both came off from duty at the Tower. Before they came in, there were two men of the appearance of Gentlemen came in. I was in the cellar at work; when I came up from the cellar, I saw two Gentlemen with a pot of porter; they asked if I sold bread and cheese. I said I did not; they might get it a few doors up the street; Windsor was with them. Windsor was one of the two that sat at the end of the table; I do not know who the other was; he was genteelly dressed in a blue coat, and had an umbrella.

they were the only two men in that box. Whilst they were drinking, Dean and the other soldier came in from duty at the Tower. *Windsor was one of the men decently dressed.*" Now that is certainly contradicted by Windsor, and by Campbell, and Dean, who all prove that Windsor was in regimentals. "The other was genteelly dressed with an umbrella; I should not know him again if I should see him." He proves, however, that the person there had an umbrella with an hook stick, but he says he should not know his person again if he saw him.

Thomas Blades, a soldier in the foot guards, says, "I know John Francis; I had a conversation with him in the presence of Windsor about the beginning of June. He told me several Gentlemen had established themselves; that the Gentlemen who had united themselves, were determined to risk their lives and fortunes to form a free and independent Constitution; for he said the present Constitution was much broken; he desired me to join them, and to take an oath to join the Society. The Sunday following I conversed with John Francis on the subject; Windsor was with me at some part of the second conversation. A card was shewn me by John Francis; I read it; I cannot tell the whole of it, there was, "The Constitution of the United Kingdoms of Great Britain and Ireland." I cannot go through what was written on the card; there was something at the bottom of it about swearing in the presence of Almighty God, to get those rights we took the oath to maintain. I was told by John Francis to kiss the oath, and I did. This was the manner of swearing. This was after the parade was over; I was sworn upon the parade. After that I went to the Ham and Windmill, in Windmill street, at the top of the Hay-market; John Francis and Thomas Windsor went with me. I was there again the latter end of June, that evening the balloon went up from Lord's cricket ground. I was fetched by William Francis. John Francis was there; a man called Connel, as William Francis told me, and Macnamara came soon after, and there were some more there, but their names I do not know, who formed part

of the same company. Macnamara said he came from the Executive Power, and exhorted the Society to stick together and arm themselves, so that they might be able to make head against the Government."

This man to be sure stands in the situation of an accomplice; however, you will judge whether any, and what degree of credit, is due to his testimony on its own account, and how much is derived to it from its coincidence with that of others; according to him, this was a very wide spread conspiracy. "Macnamara said he had full power from the Executive Government to appoint a colonel to command the first regiment of the national guards; he appointed John Francis to that command, and authorized him to appoint three more, and an officer of artillery. John Francis appointed me as one of the three, and Connel another; and a little man another; and he appointed a person there to be captain of artillery, because he was used to gunnery; that was the person he swore in on the Sunday, when Windsor and I were present. The little man and John Francis went out of the room; when they returned, John Francis had a paper in his hand, and there was written upon the top of it, 'The first regiment of national guards, and an appointment of colonels to command the regiment.' One of the men, who was a breeches-maker, talked about commissions being issued, but Macnamara said, the issuing out of commissions would be the signing of their death warrants; that the officers should receive their commissions the night before the attack should be made. The next time I saw John Francis was the 6th of September, in the Tower; I was then on the main guard at the Tower. On the Monday following I was at the Bleeding Heart, in Charles-street, Hatton-garden, I saw him there, and John Wood, Tyndall, Wratten, Penderell, Macnamara, and Winterbottom I believe were there. I do not recollect any others, yet several other persons were there, I suppose about a dozen or fourteen. Wratten spoke up and said to Penderell, that he had come with Tyndall from the

Borough, to know the determination of the Executive, as to when the attack should take place. Penderell said, the attack would have taken place before, if it had not been for two or three cowards, Roach in particular, not bringing up their men; but he said it should lose nothing on his part, he could bring a thousand men into the field at any time; he said, if he saw any man shew symptoms of cowardice, he would blow his brains out. John Francis in answer to that said, he thought it would be better to make the attack as soon as possible, at least before the den of thieves met, by which he said they meant the Parliament. He said, if they discovered our proceedings, or were any ways up to them, that they would enact such laws that we should never be able to meet together, or to correspond with each other. In answer to that, Penderell said there was no danger of discovery, for that he had belonged to it a considerable time, and many persons had been taken up at different times, but had never divulged the secret. He said, that if any man should divulge the secret, he should have a dagger in his breast directly. Wood said, in case he should not be there at the grand attack, he would be with a select party of his own, and which would be of as much importance as where the grand attack should take place. Ammunition was ordered to be provided for the people by the Executive; both Macnamara and Penderell used the term Executive; but it appeared to me as though Penderell was one of the Executive. I met John Francis one Sunday as I was coming along High-street, in the Borough; he asked me to go to the Black Raven, in Tooley-street; Tyndall, Wood, Macnamara, and six or seven Irishmen were there, in a state of intoxication; there were about twelve or thirteen in all. We had a conversation about a form of Government. I was at the Oakley Arms on Tuesday, the 9th of November; I was going from East Smithfield, where I work, up to Knightsbridge Barracks, to receive my pay; going along through Cannon-row, I met Broughton; he told me there

was to be a meeting at the Oakley Arms that night, prior to the attack being made on the 16th: so that it seems that the 16th, being expected to be the day on which his Majesty was to have gone to the House, was the day on which the attack was to be made. Broughton said, that the heads of the people would be there to settle it, and he desired me to call upon him at the Oakley Arms: I went there; I went first into the tap-room, and called for a pint of beer; I went to the bar and asked for Broughton; the landlord called his boy directly, and told him to go up stairs and tell Tom there was one wanted him. Broughton came down to me and took my pint of beer. I went up with Broughton; he said, the Colonel is here, as I was going up stairs; I went into the room; as soon as I got into the room, a Gentleman presented me with a shillings-worth of rum and water to drink round; this Gentleman was Colonel Despard. Wood came and whispered into the Gentleman's ear that gave me the liquor, and said, the Gentlemen who are come upon business this night, ought to retire into one end of the room, and those that are only come to shew their good will, to the other end of the room. Afterwards it was agreed that those who came to settle business, and who were called the representatives of the different divisions, should have the fire; and the others, who came to shew their good will, should retire to the other end of the room, where there was no fire. Colonel Despard sat by the fire by the representatives, at a table, with his right side against the fire; I did not hear what passed among those next the fire. Broughton in the first place said, there is the Colonel, pointing over to him; did you ever see him before? I said no, I had not; says he, he is a very fine man. I asked Broughton whether he was fluent of tongue? He said yes, he was. Wood said, the properest place to attack his Majesty would be that place in the Mall by his private gate, between that private gate and Buckingham-House, because there would be no horse guards there when his Majesty comes out of his private gate, after the levee

day, to go to Buckingham-house. Broughton said, at the same time the Parliament House must be attacked; and when that business was done, they should hie away to the Tower directly. I did not stay till they broke up; I quitted the house about ten o'clock, and left all the persons I mentioned there.

Upon his cross-examination he says, "I have been a soldier nine years and four months. I have been punished twice. I have been tried by three or four Courts Martial for absenting myself from the regiment. I never have been charged with any theft. I have been charged with beating a watchman. I was never brought to any bar."

Gentlemen, this examination was pushed to an extent, which, under certain other circumstances, and indeed under almost any other circumstances than the present, would have made it my duty to have interposed; but in a case of this peculiar sort, where a witness comes in the first place under the suspicious circumstances in which this witness presents himself, as an avowed accomplice, and considering next that he is likely to have the benefit of the ablest advice and suggestions from the law officers of the Crown, as to the nature of the questions which it might be expedient for his safety that he should refuse to answer (if indeed he could be under any difficulty or danger on this head, produced as he is on the behalf of the Crown) I say, in a case thus peculiarly circumstanced, I thought it unnecessary to tell the witness, that if any question was put to him which was likely to criminate him, that he might ask the protection of the Court from answering it; he has however answered all the questions of every kind which have been put to him, and yet not one witness has been called to contradict him, any more than indeed than there has been to contradict any other of the witnesses, though after such questions were put, one might have expected that witnesses would have been called to contradict him in some of these particulars. He says, I was never charged with any theft in my life, nor brought before any bar. I know a person of the name of Tibbetts;

I had some leather by me, and some of it was lost; he did not charge me with stealing it; he said I had made away with it; that was the winter before we went to Holland. I never on any other occasion had any charge against me; and with regard to that leather, I paid Mr. Tibbetts for it, and he never brought me before any Justice for it.

Gentlemen, this is the account he gives; you must take it with all its circumstances, and say, whether in any and what degree it trenches upon his credit as a witness; the man vindicates himself from having stolen the leather, and says, that he paid for it, as he might do for leather he had lost or wasted, and that he was not carried before a Justice. He says, "when I absented myself from the regiment, I got off about two hundred miles; I was tried for it; I was forgiven by my commanding officer. I have served ever since. I have been on the continent twice; and have been at Chatham. I served in the expedition to Holland. I went to the Continent the 5th of July, to the best of my recollection, in the year 1794, and joined his Royal Highness the Duke of York at Antwerp."

William Francis, the next witness called, is a private in the first battalion of the foot guards, and has belonged to the regiment two years last Christmas. He says, "I was applied to by the Prisoner, Colonel Despard, to swear me at Tower Hill, near upon Bartholomew Fair day; some day last September, I believe; John Francis and Wood wanted to swear me to their intentions against the King and Government. A card or paper was produced to me many times; I cannot read; they explained to me what the nature of it was; what I remember of it was, it was to overthrow the Government, and kill the King and Royal Family." Gentlemen, this I conceive must be taken rather as his representation of the supposed effect, than of the literal terms of this paper; for there are no such terms in the card as "overthrowing the Government or destroying the King and Royal Family." He says, "Help me, God was at the bottom of it, and it was a small card; they proposed that I should kiss the card, but I never

did. John Francis and Wood applied to me to swear before Colonel Despard; it was a brown paper like that. Colonel Despard applied to me to be sworn on Great Tower Hill, at the Queen's Head, or the King's Head, a public house facing Great Tower Hill." Now if this be true, it makes the contents of this paper, though in the hands of others, and this business of swearing in, when done by the several other persons already mentioned, who are affected by evidence of the like kind, provided they are also sufficiently implicated by the evidence in a treasonable conspiracy with Despard, for the purpose of forwarding the same general objects and designs which have been already stated material evidence against Despard himself; because, if, this witness is believed, he is himself using one of these same papers for a similar purpose with theirs, and endeavouring to bind the conscience of this man as they had done the consciences of others, by inducing him to be sworn thereupon, "Colonel Despard," he says, "asked me what were my principles, and what I thought respecting the plan that was going on, as to taking the Tower that day. I said I did not approve of it. I asked what was to be done that day; he was on Tower Hill; he said nothing could be done that day; he said he expected money and news from France. John Francis said the people that met had dispersed, because they could do nothing that day. When he applied to me to be sworn, the Colonel read the brown paper over to me; it was the oath; after he had read it over, he gave it into my hands to kiss. I saw the Colonel afterwards, soon after Bartholomew Fair, at the Bleeding Heart, Hatton Garden. Colonel Despard, John Francis, Wood, and Macnamara, and others were there. The plan was read over about taking the Bank, the Tower, and the Horse Guards, Colonel Despard read over the same paper to me in the corner at the top of the table, close by my brother's side; and desired me to kiss it. The Colonel said he hoped my principles were mended since the last time he saw me. I did not comply with his desire. He said, it was odd my principles were not the same as my brother's. I know the Coach

and Horses, near Moorfields. I was there the Sunday after I came from Windsor, my brother and Wratten were there; and Macnamara, and Wood, and Newman were there; the subject discussed at this meeting was concerning a paper Wratten brought from Windsor respecting plans of Government. Some soldiers there drew their bayonets, and we insisted upon having a time fixed for taking the Tower before we left the company." I do not find any thing here of the kind which was mentioned and observed upon by the Counsel for the Prisoner, that the persons present at this meeting had been sworn on their bayonets. I find no swearing upon bayonets; but only that they drew their bayonets and insisted upon having a time fixed for taking the Tower before they left the company. William Francis, though he does not appear to have taken the oath, appears to have joined with the rest in what was done. He says, "I went to the Running Horse, we went to settle the business. Mack said he believed we should meet with the Colonel there; we went up stairs and drew our bayonets, because we would have a time fixed. Mack said he would convey our desire to the Grand Committee. The next time I saw Colonel Despard, he, and my brother, and I, had a shillingsworth of brandy and water. We met him that time accidentally; he offered a small card which my brother gave to him, he looked it over and handed it down to me, meaning for me to kiss it; but I would not, and told him I never would; he said he was sorry I was not of the same principles as he was." It is very extraordinary, that though this man seems to have joined in this treasonable scheme for seizing the Tower, and the like, that he would not kiss the card. "I told him," he says, "I had been sworn once to my King and Country, and would not be sworn any more."

Upon his cross-examination, he says, "I have been a soldier two years last Christmas; I never got a flogging in my life. I never was tried by any Court Martial. I cannot say I was never charged with deserting; I did desert. I was scarcely twenty-four hours out of one battalion before I was with the other. One Cas-

sels was with me; a corporal and two men were sent after us; some watches which Cassels had was partly the reason, but it was more on account of desertion than the watches that we were apprehended. The watches were taken from different men in the town. I never saw Cassels pawn any more than two. I knew after he had left Chatham, that he had taken them, but not before. My brother never charged me with robbing him; nobody ever did." So that, according to his own account, he was not concerned in the theft, though he understood after the man left Chatham, that he had not come honestly by the watches.

Upon re-examination, he says, Cassels was a watch maker by trade. When he went from Chatham, I did not know he had any more watches than his own. I came to London; I voluntarily gave myself up to my regiment. I did not receive any punishment, Serjeant Darby got me a pass from the General in London to go to Chatham to join my regiment. I rejoined the regiment, and have continued with it ever since.

John Connel was next called, he says, " My name is Patrick, I never used that name till I was apprehended," then he says, " I gave in the name of John, by the desire of Colonel Despard, when I was apprehended at the Oakley Arms by the officers of Justice, in the presence of the Prisoner." I think that circumstance should not apply materially as against Despard; namely, his desiring him to use the name of John, because he could not then probably advise him so to use it in contemplation of deriving any such advantage from it in the occasioning a misnomer in the list of witnesses delivered in on the part of the Crown, as has eventually arisen, and been derived from it on the present occasion. What the purpose was for which he might desire him to use the name of John, is to us inexplicable; but the subject is now wholly immaterial, as the Crown has waved its claim to examine him as a witness.

John Bird is next called, he says, " I know John Francis. I remember his coming to my lodgings in the month of August, at New Windsor. He did not

produce any thing to me the first day. I had told him my master worked for the Royal Family; he said, he would be bound my master was a pretty villain. He came to my lodgings again; I believe, the next day; he told me then that the King would be dethroned, it was the beginning of August; he was at that time stationed with his regiment at Windsor; the guards were at that time upon duty there. He told me in what manner the new Parliament would be raised after the King was dethroned, every parish was to form themselves into a committee of fourteen, and then into seven, and one out of every seven was to come into the Parliament House. He asked what sort of a place Windsor Castle was, what plate there was, whether it was silver or gold? I said, I could not tell him. He used to come almost every day. When he came again, he said he had something he would shew me; he he shewed me a card, and offered to swear me. I read it; I offered it to him again; he would not take it; he damned my soul, and bid me kiss the book. I put it to my head as if to kiss it, and gave it to him again; this is like the card. He asked me to let him leave a book with me, that he did not like to leave at the barracks, which I refused; he did not shew me the book, or explain what it contained. He offered me three shillings, or three shillings and sixpence a-day to go along with him to London, and a twenty pound note when I should be wanted: he said, that it was to fight to burst the chain of bondage and slavery."

John Pike says, "I know Wood of the first regiment of guards; he shewed me a card; I was in the same company; he said, will you agree to this, and abide by it:" it was in size like a card shewn to him. "I read it over, and returned it back when I had read it, and told him I would not. He told me there were upwards of three hundred or four hundred of soldiers of the third battalion lying in the Tower, and about thirty of the first had already engaged in the Constitution Society; that is, the Society, to forward which this card was printed. I know John Francis; I saw him and Wood together; they were going to the Ham

and Windmill, in Windmill Street; they invited me to go with them to have something to drink, and said that it should cost me nothing. I went along with David Morgan, of the same company that I belong to. I was directed to ask for John Wood and John Francis; it was on a Sunday night, the second Sunday after the battalion came from duty at Windsor. At first going in I sat in the tap-room; there were more soldiers there; there was a man who seemed an Irishman, who asked me if I would go up stairs with my comrade Morgan, and some soldiers in the tap-room; Morgan and I went up, we found Francis and Wood there, about eighteen soldiers, and three men dressed in coloured clothes. One sentiment given as a toast to be drank was, May the wings of Liberty never lose a Feather. Wood said, when I returned him the card, that if either I, or any other man, were to divulge the secret, we should be immediately put to death. I do not know all the soldiers by name that were at this meeting; there were John Francis, William Francis, Thomas Newman, David Morgan, James Saunders, Job Roberts, John Rogers, and there was one there of the name of Brown. John Francis told me, if I engaged with them, I should have three shillings and sixpence a-day. I afterwards saw Francis and Wood at a meeting at the Bleeding Heart, in Charles Street, Hatton Garden, where soldiers were present, and the business was the same as that discussed at the Ham and Windmill.

On his cross examination he says, "I have been a soldier three years and eleven months; I was punished with two hundred lashes, for absenting myself from my post when on the King's guard, when sentry in the Prince's gardens; nobody ever attributed any thing to me about stealing eggs. I am a private. I was a corporal and have been twice reduced. I have been a private now eighteen months.

Robert Tomlinson, a soldier in the first regiment of guards says, the second Sunday after the battalion came from Windsor, I was at the Ham and Windmill, in Windmill-street; William Francis was there; Saun-

ders was there, and Job Roberts, with whom I went. I knew very few of them. Macnamara asked me to be sworn in this conspiracy, and desired me to swear. I asked him what it was; he said a free and easy society, to overthrow the Government and have our nation the same as France. He asked me to come again the Wednesday following, but I never went again.

Job Roberts, a soldier in the first regiment of foot guards says, I was at the Ham and Windmill on a Sunday, with Tomlinson; there were thirty or forty soldiers; a gentleman in coloured clothes, who looked like a tradesman, desired me to sign my name to a paper; I do not know who it was: seeing the persons, when removed from Newgate hither, I thought it was the last person that came out, but I cannot swear to it.

Peter Pollard says, I went to the Oakley Arms; Daniel Tyndall asked me to go there; I went with him. I was there but once. I was there on the 16th of November, when they were apprehended.

Gentlemen, the next witness, John Emblin, is a very material one; he says, "I am a watchmaker by business, resiling at Vauxhall. I was at the Oakley Arms on the 16th of November. The first person that told me of the meetings there was Lander; he told me of them about four weeks before I was apprehended. He asked me if I heard any news; I said no; he said that something very particular was on the carpet. He asked me whether I had heard of any society forming; I said, no, I thought they were all done with; he said no, that a party was forming stronger than had ever been yet, and that they looked up to Colonel Despard as their head. I saw Broughton and Lander frequently. The first meeting I had with Broughton was after this intimation from Lander; to the best of my recollection it was on a Sunday; I and Lander were talking together, Broughton came up; I objected to the plan of overturning the Government, which Broughton called the system of man-eaters, calling the Government a set of man-eaters. Broughton frequently invited me to attend the meetings of the Society; I told him at first I could not attend the meetings of the

Society, my family called for all my attention; I told him so on repeated applications. He produced to me some papers; they were on about a sixth part of a sheet of paper; he said they gave them out for them to know their friends by, and that when the attack was made, all that were not of their principles would be put to death; this is the language of the paper I had. I remember on Friday, the 12th of November, being at the Queen's Arms, Vauxhall, with John Hayes and Graham; whilst he and I were together Broughton came in; he tapped Graham on the shoulder, and asked him how he did; he then saw me, and came and drank with me; he asked me to go to the Flying Horse; there would be such a nice man there, he was sure I should like his company. I asked him who the nice man he talked of was; he said Colonel Despard. He said the King was to be stopped when he went to the Parliament House, and the business was to be settled." Some of the other witnesses, I think, say it was to be upon the King's return from the Parliament House. The witness continues, " I believe Broughton said the Tower was to be taken that day, but I cannot charge my memory. Broughton said he must go, because the Colonel was punctual to his time, as he had already exceeded his time, and he went out and took Graham out with him. I made an excuse to go out, and overheard Broughton persuading Graham to go; they seemed to turn towards the house again; I met them returning towards the house; I said, Mr. Graham, if you will go I will; Graham agreed to go, and said he would be there in an hour. Graham said, I did not know you were of those sentiments; I said, no more I am, but I have a mind to go and see the humour of it." This witness certainly indulged his curiosity at a mischievous expence, because his presence unquestionably tended to forward the purpose of the conspiracy, to give countenance to those who were present, to induce a persuasion that he joined them in those purposes, therefore his presence could not have any other than a mischievous effect. " I went with Graham to the Flying Horse; I found

Colonel Despard there, and Broughton, Windsor, and Smith; they were all sitting in a back parlour below stairs." You recollect how that falls in with the evidence of Windsor, and is confirmed by the evidence of the landlady. "Windsor was there before we came. When we went in they were engaged in conversation. When we went in Broughton desired us to come and sit down; Graham took a chair and sat by Colonel Despard; I took another and sat by Graham. This was the first time I ever saw Colonel Despard. Windsor was speaking about the form at the Tower of the keys being passed to the centinel, and, he said, that the ceremony of saying God bless the King and Amen was an ancient ceremony, which had been laid aside for some weeks, except in one instance, and the man had then been scouted for using it. I asked Broughton who Colonel Despard was; he told me who he was. I thought the Colonel heard me, and I apologized to him, saying, that I did not know him before, but that I had read of him in the Cambridge paper. The conversation turned on the Wet Docks, and on the circumstance of soldiers being employed to guard them. I asked Colonel Despard whether there was any particular business in hand, and what he thought of it; he said, nothing in particular, only it seems to be the wish of a great many people, that an effort should be made to recover some of those liberties which we have lost, and the day is fixed for Tuesday week next. I asked him if he had any ground or sufficient force to go upon; he said, yes; a considerable force indeed, if the people come forward in the way I have been given to understand they will; we have a great number of the army, and there are a great number in all parts of the Kingdom, in Birmingham, Manchester, Leeds, Sheffield, Yorkshire;—I do not say that I enumerate the places exactly as they were enumerated to me, but he mentioned all these places; and here in and about London the people are every where ripe, I think he said; Chatham was mentioned as another place. He said he had been engaged in this business two years, or more than two years. I have

travelled, he said, twenty miles to-day." Windsor stated that he said he had walked twenty miles, "and the people, wherever I have been, are every where ripe, and anxious for the moment of the attack. I asked him if he had any regular organization; he said regular organization would be a moral impossibility; he did not exactly state the reason why, but that it would be so near and so much under the eye of Government, but in the country it would be more general. I asked him whether the attack was to be made in London and the country on one and the same day; the form of my question I am not quite sure of; he said, no, by no means, that would be highly improper, but that the stopping the mail and stage coaches would be a signal to the country. During the evening, Graham, the prisoner, clenched his right hand, and swore, with an oath, you will do no good, unless you secure the whole of the family. Broughton shook his head, and said, that is easy enough done; that is already settled. I asked him how; he said, take and shoot two of the horses, and then the carriage must stop;—the King's carriage, I understood him;—and then seize him immediately. This was to be done as the King should return from the Parliament House. I replied, do you consider there are horsemen that ride close to the carriage, with their horses heads almost in the window, and any person attempting such a thing would be cut to pieces: then says I, who would do it? says the Colonel, I would do it with my own hand. I cannot recollect any more expressions of Colonel Despard's at that meeting; but I recollect the Colonel saying, *I have weighed the matter well, and my heart is callous.* I rather think this was after saying he would do it with his own hand. There was a conversation respecting seizing the Bank, but the exact words I cannot tell. It was agreed the Bank should be seized and the Tower should be taken; the Bank I particularly recollect; they said the arms there, about six hundred in number, had been rendered useless, by some part being taken off, but I cannot say what part: whatever was said was all distinctly heard by the Colonel. I

principally engrossed the conversation; my curiosity is the main occasion of my standing here to day. I remember the seizing the Tower was treated as a matter of confident expectation and certain success. I recollect one person, Windsor, said, give me a hundred men, and I will take it myself. The Colonel went away and left us there; we continued there some time afterwards and then went away. I gave the maid something; they would not let me pay at the bar. I gave the girl threepence; the girl seemed aukward at taking it; I said, I will take a kiss the next time." You remember, he thought it necessary to make some kind of explanation or apology about this matter; I do not well understand how it required any such particular explanation. He proceeds—" I did not see Colonel Despard again till I saw him at the Oakley Arms. I went to the Oakley Arms on the evening we were apprehended at about eight o'clock. I did not expect to meet any body there scarce. Lander, in the day time, had been talking of the attack on the Tower, and wished to know whether it would be prudent to have a division to march from the Tower to New-Street, Bishopsgate, and there take the arms of the India Company, from thence to the Artillery-ground, where they could get more arms and artillery, and from thence proceed forward and assist the attack at St. James's, and if they had a sufficient force at the taking of the Tower, he also proposed another detachment should go another way, through the Borough and through the New Cut to the Parliament House, to assist those who would be there, and, he said, that he thought it might be proper to have couriers to ride backwards and forwards, and give accounts of the success of the army; and if I understood him right, he had been on the Sunday previous to that to engage a house, where, I understood him, he was to sit and receive the reports of those couriers or aid-de-camps, or whatever they might be termed, which house, to the best of my recollection, was the sign of the Angel, in Cecil-court, St. Martin's-lane, and then he asked me to write down the plan, which I refused; he seemed to

look at me with astonishment. I had never been sworn into the Society, and was therefore looked upon with a jealous eye. I then said, if you please I will go with you to the Colonel, if you can introduce me to him, and see what he will say to it. I had had a conversation on Monday with Graham. I understood Lander that he would introduce me to the Colonel that evening; that evening as I was carrying home a clock, I met Broughton near the Turnpike; he said, I understand you are coming down this night; do, he said, but don't be long first. I said, I cannot come till I have put my clock up. He and I parted; going on I saw Lander shutting up his shop. I went past his house, where I was going with the clock. He asked me if I was ready; I told him no, I was obliged to go home with that clock. He said, how long should I be; I said, about a quarter of an hour; he said, if I would not be longer he would wait for me; but he was in a hurry, as he had to go to town; when I returned he was gone, and I went to the Oakley Arms by myself. Broughton and Lander had both told me the meeting was to be there. I believe I had been in there about twenty minutes when the officers came in, I went into the parlour on the left hand at the Oakley Arms; I saw some persons who appeared to be strangers; they asked, who do you want? I said, Broughton, or Russel; they said, you will find them up stairs; I went up, Broughton desired me to sit by him. I judged there must have been about twenty persons there then; there were two came in after me, Smith, and his journeyman. Colonel Despard was there. On Broughton seeing me, he asked me to sit by him. The company were engaged in conversation in different parties. Colonel Despard was standing and speaking to John Francis. Broughton said, my boy, my cock, we have got the completest plan in the world, to do the business without any trouble; we will load the great gun in the Park with four balls or chain-shot, and fire it at his Majesty as he returns from the House; then, with a sort of a sneer, he said, he would be damned if that did not send him to Hell, and so on; the expres-

sions shocked me very much, and I exclaimed, good God! do you consider how many people will be in the Park that day, and how many lives you will take away! He then said, damn them, let them get out of the way: he said it would play hell with the Treasury, and round about there. Some person in company said, that the cannon might be too low: another person said, it might be easily raised an inch: some person said, but if it misses his Majesty; Broughton replied, then damn him, we must man-handle him. I cannot exactly say, whether I had conversed with the Colonel before this, I rather think I had, the Colonel was as near as you and I are now, the conversation I had with the Colonel was, I asked Broughton whether I might speak to the Colonel; I said, Sir, you were speaking of taking the Tower, alluding to the conversation at the Flying Horse, and that Lander had said, would it not be proper to have a division to go from there. I repeated the plan which Lander wished me to write down; the Colonel said, he did not approve of it, for he believed that one half of the East India Company's men in their warehouses were our friends already; but the Colonel said, we are not sure that we can have the Tower, but if we have the Tower, we have every thing; there are arms sufficient to arm a great number of men; he named the number, I do not recollect it, but more than were wanted for the purpose, and to go to the Artillery Ground would be useless, for what purpose would it answer? I replied it was to form a sort of garrison to annoy the associations; the Colonel said, no; St. Paul's would be a great deal better place. I cannot tell you exactly the terms; but it was in that conversation the Colonel said, if we have the Tower and the Bank we have every thing. I said, Sir, do you think it would be proper to meddle with the Bank? he said, surely, the Bank ought to be almost the first consideration, for if we have the Bank and the Tower, we have every thing necessary, and that from the Tower he could burn the town and batter it to pieces. Somebody talked about destroying the Telegraph. I said, Sir, do you think that would be necessary? he replied,

surely, for it is a thing that would be of no service to us, but of vast importance to our enemies. He said that Windsor is a total stranger to him, that he saw him for the first time on the 12th of November at the Flying Horse.

Upon his cross-examination he said, he came from Witney, in Oxfordshire; that he was then in custody, and had been so ever since he was seized at the Oakley Arms.

The next witness, Mrs. Mary Plowman, certainly affords very material confirmation to both Windsor and Emblin, as to what passed at her house on the evening of the 12th of November. "Mary Plowman, the landlady at the Flying Horse, at Newington, says, I remember hearing of the people being apprehended at the Oakley Arms; some Gentlemen came to my house a few days before; there were, I think, about six of them: the first persons that came, came in a little before eight o'clock, at the street-door, and went through the passage into the parlour. I was working in the back room; when they came in they called for a pot of porter; they said, they hoped they did not disturb me; there were two of them then: one was dressed in a dark brown great coat, and had a silk umbrella in his hand;" which description tallies with the description before given of Colonel Despard at other places: "they went into the back room, which is called the kitchen; which we call a parlour; the door was shut, and the curtain drawn; they drew it themselves; they appeared much in private. I heard one man say, *he had weighed every thing well within him, and his heart was callous.* The person who said this was speaking slow, but not very loud." I asked her at what distance she was when she heard this? she said, about the distance that I was from her; that she was then leaning over the bar. "I know Windsor, he was at my house that evening. I remember there were two men there before Windsor's arrival. He asked if any body had enquired for him, seeing somebody backward he joined them. My hus-

band was out with his beer that evening. I cannot say how the reckoning was paid, as to what was had in the parlour; the servant maid went in and took the money: they went away a little after eleven o'clock. When five men went away, they came to the bar, they had four glasses of gin and a glass of rum, which came to nine-pence. I gave three-pence change to a little man, who turned and gave the three-pence to the bar-maid." This circumstance of giving the half-pence to the bar-maid, as related by this witness, is a further confirmation of both Windsor and Emblin, as to the same fact. She also confirms them as to the fact of the person with an umbrella having left the company before this time.

Sir Richard Ford says, that he took down the examination of Windsor at the Secretary of State's Office, in consequence of which, Blades and Francis, and some other soldiers, were sent for and examined.

This is all the evidence that has been given on the part of the prosecution. Gentlemen, you were very properly told that this case does not involve, as indeed it does not, any question of law. I have already observed to you, upon the point that was made by the Counsel for the Prisoner, namely, that this was a case of Treason, where the Overt-acts proved consisted merely in words, and that mere words could not amount to an Overt-act of Treason. If this evidence is true, besides the other Overt-acts of meetings and consultations, seduction of soldiers, administering of these unlawful oaths for the purposes of this conspiracy; the words were used as the means, instruments, and vehicles, for carrying the avowed treasonable objects of the parties into effect, by proposing, arranging, and settling a plan for seizing the Tower and the Bank in the first instance, and for assassinating his Majesty, and overturning the Constitution, in the second.

To the observations made by the Defendant's Counsel respecting the testimony of accomplices, I have already adverted. It is singular enough that the Defendant's Counsel expressly admit that a trai-

terous scheme and conspiracy did exist somewhere; but they contend, and wish you to believe, the Prisoner at the bar never concurred in, or was a party to such conspiracy. If there be Treason, whose Treason is it if it be not his? If he be not the Traitor, who are the persons that are so? If the witnesses are worthy of credit to the extent of proving the existence of the Treason itself, why are they not also worthy to be believed as to the persons of the Traitors? The safer and more consistent course would certainly have been to deny, to their testimony, all credit whatsoever, either as it established the crime, or as it affected the supposed criminal. If, indeed, they were unworthy of credit in the general course and habits of their lives, and have so demeaned themselves that they were not entitled to be believed upon their oaths, it was not only competent and highly proper for the Prisoner to have called persons to prove that the witnesses produced against him were persons wholly unworthy of credit, and not fit to be believed upon their oaths. Persons tried for High Treason being, by the indulgent provisions of the law, in possession of the names of all the witnesses to be brought against them, for more than ten days before their arraignment, have ampler and more convenient means of confronting or discrediting witnesses, than any other description of persons who are the objects of accusation and trial; with all these advantages of the law in his favour, no evidence of that kind however has been offered, or attempted to be offered, on the part of the Prisoner, against any one of all these several witnesses; they stand therefore before you not impeached, or even attempted to to be impeached, in the usual and ordinary way in which witnesses grossly unworthy of credit may be, and are, properly attacked and discredited. As to the objection that the bulk of the evidence given in this case proceeds from accomplices, it is certainly true, hat the evidence in this case rests principally (as in some cases it does and must almost entirely) upon the evidence of accomplices. What was said by Lord

Holt in the trial of Charnock, Keys, and King, in the State Trials alluded to by the Solicitor General, comprises, in a few words, the good sense and the law upon the subject. "It is certainly," says Lord Holt, "a very hard matter, if not impossible, to discover crimes of this nature, if the accomplices in those crimes shall not be allowed to be good witnesses against their fellow conspirators." And in answer to an objection of the prisoner, "that though an accomplice was a legal witness, he was not a good one;" Lord Holt adds, "he is a very good witness if he be a legal witness, but the credit of what he says, in all other cases, must be left to the Jury, who are judges of the matter of fact, and of the credibility of witnesses." In that case the three most, and I may say almost the only material witnesses, were all of them principal conspirators in the Treason; though one of them, a Mr. Pendercraft, drew back early, from a detestation of the intended measure of assassinating the King; and there was no such confirmatory evidence of persons not concerned in the criminal project, as has been produced upon the present occasion. You have had proof from several persons of their meeting at public houses; in one instance, Walker, the landlord of the Coach and Horses, in High-street, Whitechapel, who was present, confirms not only the circumstance of their being at his house, but various other particulars related by Windsor, as having passed on that occasion; and which are also further confirmed by the two soldiers, Campbell and Dean, who were also present, and invited by the Prisoner to partake of the bread and cheese he had sent out for. Windsor and Emblin are most materially confirmed by Mrs. Plowman, the landlady of another public-house, who overheard those very extraordinary and marked expressions of the Prisoner respecting his heart being callous, which you cannot have forgot. So that in this case, such of the witnesses as are properly accomplices, have been confirmed in a manner in which they have hardly ever yet been confirmed in other cases. Some of those who have

been called accomplices, are not strictly speaking such. If Windsor entered into this scheme with the original purpose of making a timely discovery of the mischief, and that he did so, his immediate communication to Mr. Bownas, the advice he received from him for his conduct in the business, his subsequent voluntary communication to Mr. Stafford, his voluntary appearance at Union Hall the next day, his uncompelled discoveries appear very strongly to indicate; upon that supposition, I say he is not strictly an accomplice. Though the concern he had in the business in continuing so long, and mixing so intimately, and forwarding with so much apparent good will and alacrity, the objects of the conspiracy, certainly exhibit him to you as a person of no very delicate character and feelings; and if the testimony he gives had been materially confirmed, as it has been, and if his general credibility as a witness upon oath, had also been impeached with effect, I should certainly have advised you to pause upon the testimony of this witness, and to think well of the degree of credit you ought to give it, before you believed it. Emblin receives, you will recollect, confirmation from Mrs. Plowman, as to the meetings at her house on the 12th of November, and the memorable language used by Colonel Despard there, as well as Windsor does; and Emblin too is neither contradicted or discredited in this, or any other part of his story. If then a treasonable conspiracy for the imputed purposes existed at all, and it is admitted that it did, who is the traitor if the Prisoner be not the person. He is found in a society, which, from his former situation in life, his former character and habits, seems to have been most unfit for him, and ought certainly to have been most distasteful to him. An officer, heretofore, of considerable rank and command in his Majesty's service, is found in daily conversation with soldiers of the lowest class, at public houses of the meanest resort, in company with the commonest workmen and labourers, yet no account is attempted to be given of the reasons which brought him to these places, or mixed him in this extraordinary sort of society. What, it may be asked, led him to the

Flying Horse, at Newington? What to the Oakley Arms? What to Tower Hill? What to the Coach and Horses, at Whitechapel? What induced him to sit down there with such men as Windsor, Winterbottom, the two soldiers, and Herron? What, to partake with some, and to offer to others, the humble fare he sent for upon that occasion? What honourable end or purpose could he aim at promoting by such degrading intercourse and connexions? If there were any end or purpose which he could safely avow, it was incumbent upon him to have shewn it in evidence to you. But has he explained in evidence, or even attempted to explain in argument, the motives of so extraordinary a conduct. Have his Counsel offered one plausible excuse for his presence on these occasions. On the contrary, you are left without the shadow of a reason, apology, or excuse, suggested on his behalf, to resist the inferences naturally resulting from such a conduct as his, as well as you are able. He affords you no assistance on this head, nor in any degree enables you to draw a more lenient and favourable conclusion from these facts, than what they, on the outside of them, seem to suggest to you. It would have been matter of great satisfaction to me, to have been furnished with some materials of explanation to lay before you on the part of the Defendant, to account for all these apparent untoward circumstances, but I am furnished with none. The case, as far as I am able to discover, contains none. The only evidence offered on his behalf, is, as to his character, and that is, as applied to the particular point of time which it respects, as high and unexceptionable as can be given of any human being. Lord Nelson, upon whom, as witness upon such a subject, it would be a needless waste of words to bestow any commendation, or to state what must be the value of his testimony in the estimation of every British Jury; Lord Nelson states, that he knew Colonel Despard; it is twenty-three years ago since he saw him. "I became acquainted with him," he says, "in the year 1779, in Jamaica, when he was a lieutenant in what was called the Liverpool Blues, when the invasion of Jamaica was expected to take place. His Lordship

spoke of the hardships they had borne together in the course of service; that they had spent many nights together upon occasions, when, as I understood him, they had been in the trenches together; he tells you that no man ever shewed a more zealous disposition for the service of his King and Country;—"I formed," he says, "the highest opinion of him at that time, as a man and as an officer, seeing him so willing in the service of his Sovereign; having lost sight of him for so many years, if I had been asked my opinion of him, I should certainly have said, If he is alive he is one of the brighest ornaments of the British army; but I have seen nothing of him since the year 1780; I know nothing of his loyalty for the last twenty years." It would have been most important and happy for this Gentleman, if he were now able to exhibit to you his character in the same high and brilliant estimation in which it then stood, and had been able to bring down a reputation equally well earned and splendid to the moment of his present peril, by producing persons of similar character and estimation with Lord Nelson to speak of him, as having deservedly maintained the same character to the very time of his appearing at this Bar.

Sir Alured Clarke is next called, he says, "I have known Colonel Despard, I think I may say with safety, thirty years; I knew him at home with his relations at first, I knew he was very well respected by the officers of the corps, and I considered him as likely to be a very useful officer; I knew him at a later period, while I was in the Government of Jamaica, he was under my orders during the six years I was in that Government; I had a correspondence with him while he was in the superintendence at the Bay of Honduras, he was a loyal and good officer. It is thirteen years since I have seen him or had any intercourse with him."

Upon cross examination he says what could not fail to strike you;—"I never knew him associate with common soldiers, I should have had a different opinion of him if I had thought it possible."

Sir Evan Nepean says, "I have known Colonel

Despard since the American war; I have not had communication with him since the first suspicions fell on him; I did not at all suspect him, he bore a respectable character then; I knew him officially, his general conduct was such as to entitle him to that character. When he first presented himself to me, he brought testimonials to which I gave credit, till some subsequent suspicions lit upon him; but the grounds of those suspicions I am unacquainted with, and I have no other ground for thinking otherwise since, than the circumstance of his commitment to prison."

Now, Gentlemen, this is the whole of the evidence, on the one side and the other; the first thing necessary to be seen and attended to is, that there has been an Overt-act of some one of the Treasons charged in the Indictment proved by some one witness to have been committed within the local limits of this County; the Oakley Arms and the Flying Horse are both situated in this County; there is no question as to their locality. The next thing necessary to be looked to is, that there be two witnesses to the same Overt-act, or one witness to one, and another witness to another Overt-act of the same species of Treason. Now the meetings and consultations at these several places, and the transactions which passed there, if the witnesses to them are believed, are all spoken to by more than two witnesses, so that the competence and sufficiency of the proof to bring the case in point of locality of crime, and the number of witnesses necessary to prove it according to the requisition of the statute, are perfectly satisfied.

The only remaining question for your consideration is, whether you believe the evidence of Emblin, of Francis, of Blades, and of Windsor, all or which of them, as to any one of these meetings, conversations, or actings imputed by them to the Prisoner at the Bar. If you believe Windsor and Emblin, the guilt most undoubtedly is made out beyond a possibility of question; if you have any hesitation about believing them, look at the confirmation which attends them. First, where is this person actually taken? He is taken at the

very place, and in company with the very persons, at which and with whom, according to the account of these witnesses, he is in the habit of meeting, conversing, and consulting for these purposes; the men found with him are taken with this very furniture and apparatus of mischief about them, of which we have heard so much, I mean the printed copies of these abominable oaths; he is apprehended almost in the act and attitude of command, and the rest who were present in the act of obeying him. You recollect that when the officers come in he advises the company to go out of the room one and all; that he marches towards the door, and they all rise and follow him. In addition to these circumstances, you find those various circumstances of confirmation scattered through the whole of the evidence upon which I have observed already; in the instance of Windsor you find that he on the 12th of November is introduced by Broughton to Colonel Despard, at the Flying Horse, Newington; this meeting of these parties, and several of the circumstances attending it, are also proved by the landlady. The Prisoner desires Windsor to meet him at the Tower, on Monday, the 15th of November; he meets him there, he goes to the Two Bells, at Whitechapel; this stands only on the evidence of Windsor himself, but as to the meeting on that day, and about the same time at the Coach and Horses, Whitechapel, he is completely confirmed by Walker, the landlord, and by William Campbell and Charles Dean, the soldiers, who are all totally unconnected with the conspiracy, and are perfectly indifferent witnesses; and they confirm Windsor substantially, and with no very material difference, as to all such facts and circumstances, as happened there under their immediate notice and observation, so that if he is believed there is an end of the question, for then he, with any one of these other indifferent witnesses, constitute two witnesses to an Overt-act of Treason; if Emblin and Windsor are believed, there is *a fortiori* and end of the question, and the law, which requires two witnesses, either one to one Overt-act and another to another Overt-act of the same species of Treason, or two wit-

nesses to the same Overt-act, will have been most abundantly satisfied. It will be for you to say what credit you give to the testimony of these witnesses, taking at the same time into your consideration the character that has been given of the Prisoner, which if it had been given by the witnesses with full means of knowledge of all that belonged to it, down to a much later period of time, so as to be considered as exhibiting the continued and now actual habits of life and conduct of this gentleman, he would have stood before you most strongly supported indeed against any imputation of disloyalty that could have been cast upon him. Whether any malignant change of disposition has been fatally wrought in him since the termination of his acquaintance with the noble Lord and Sir Alured Clarke, from any cause, or has not, and from what circumstances such change, if it has taken place, may have arisen, we know not; we can only look to the plain evidence of external acts, to the uncontradicted history of his recent conduct which is now before us. If you believe all the witnesses to be generally unworthy of credit, or if in the particulars facts sworn to by them you cannot bring yourselves to believe Windsor and Emblin, Francis and Blades, notwithstanding the confirmation they have all received from so many various sources, then this person ought to be exempted from the consequences of the charge made upon him; but if you do believe them, I am afraid in that case, that as there is no doubt upon any question of law, so neither will there be much room for doubt upon any of the questions of fact, which are now fully left to you, for your consideration.

The Jury withdrew at about twenty minutes after Two o'clock on the Tuesday morning, to consider of their verdict; they returned into Court in about twenty-five minutes, with a verdict finding the Prisoner—GUILTY.

The Foreman added—"*My Lord, we do most earnestly recommend the Prisoner to mercy, on account*

of the high testimonials to his former good character and eminent services.

At Three o'clock the Court adjourned to Nine o'clock on Wednesday morning.

On Wednesday the 9th, the Court met pursuant to adjournment, when the Trial of John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, commenced, which lasted till near Eight o'clock the next morning, when the Jury found *John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara guilty.*

Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara, were set to the Bar.

LORD ELLENBOROUGH.

Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara, after a long and I trust, a patient and impartial trial, you have been severally convicted of the High Treasons, which are by your indictment charged upon you.

In the course of the evidence which has been laid before the Court, a treasonable conspiracy has been disclosed of enormous extent, and most alarming magnitude.

The object of that conspiracy in which you have borne your several very active and criminal parts, has been to overthrow and demolish the fundamental laws

and established Government of your Country; to seize upon, and destroy the sacred person of our revered and justly beloved Sovereign, to murder and destroy the various members of his Royal House, to extinguish and annihilate the other branches of the Legislature of this Realm, and which some of you have chosen in bold and desperate language, to describe as *a den of thieves*, and thereby to supersede, of course, all the functions of that legitimate Government amongst us, which others of you have chosen at some of your meetings and consultations, to consider and to denominate in terms equally reviling and unjust, *as a system of man eaters*. And instead of the ancient limited monarchy of this Realm, its established, free, and wholesome laws, its approved usages, its useful gradations of rank, its natural and inevitable, as well as desirable inequalities of property, to substitute a wild scheme of impracticable equality, holding out for the purpose of carrying this scheme into effect, a vain and delusive promise of provision for the families of the *heroes* (falsely so called) *who should fall in the contest*. A scheme equally destructive of the interests and happiness of those who should mischievously struggle for its adoption, as of those who should be the victims of its attempted execution.

This plan has been sought to be carried into effect, in the first place, by the detestable seduction of unwary soldiers from their sworn duty and allegiance to his Majesty, and by the wicked ensnaring of their consciences by the supposed obligation of an impious and unauthorized oath, and next by the industrious association to this purpose, of the most needy, or the most unprincipled persons, in the lowest ranks and classes of the community.

To induce a more ready accession to the purposes and designs of this confederacy, it was (I hope falsely) declared, that the Country at large was ripe for insurrection, that the great, populous, and manufacturing towns and districts of Great Britain, were universally prepared, and anxious for the change, and the name of an *Executive Authority* vested in, and exercised by

some unknown persons, and upon which the immediate adoption of great and decisive measures, the distribution and direction of the general force, the supply of ammunition and military stores was to depend, was held out as the means of encouragement and assistance, and the pledge of protection and support.

It is, however, wisely ordained by Divine Providence, for the security and happiness of mankind, that the rashness of such councils, do for the most part counteract and defeat the effects of their malignity, and that the wickedness of the contrivers falls ultimately upon their own heads, affording at the same time due means of security and escape, to the intended victims of their abominable contrivances.

The leagues and unions of such associates are at all times false and hollow. They begin in treachery to their King and Country, and they end, if they do not immediately begin, in schemes of treachery towards each other.

The safety of the public, which appears to be for a time put in hazard by their crimes, is often providentially redeemed from its peril by the intervention even of other crimes and criminal motives operating upon the same class of dangerous delinquents.

It has thus happened in the present instance, and your crimes have been, in part, disclosed and frustrated through the means, and by the operation of the same passions, motives, and instruments, by which they were conceived, prepared, forwarded, and nearly matured for their ultimate and most destructive accomplishment.

It behoves all those whose destruction was, according to the testimony of one of the witnesses, doomed to take place in the successful event of this Conspiracy, and which description of devoted persons, as it involves *all of different principles from the Conspirators*, necessarily involves, I trust, the greatest part of the British Community to acknowledge the goodness of God, which has rendered so dangerous a project of public mischief hitherto, at least, abortive.

As to you, the convicted contrivers and instru-

ments of this dangerous but abortive Treason, it remains only for me to perform the last painful part of my official duty towards you. As to you, Colonel Edward Marcus Despard, born as you were to better hopes, intended and formed as it should seem by Providence for better ends and purposes; accustomed as you heretofore have been to better habits of life and manners, pursuing, as you once did, together with the honourable companions of your former life and services (and who have appeared as witnesses to your character during that period) the laudable objects of virtuous and loyal ambition. I will not at this painful moment point out to you how much all these considerations, and the degraded and ignominious fellowship in which you now stand, enhance the particular guilt of your crime, sharpening and imbittering as I know they must, in the same proportion, the acuteness and pungency of your present sufferings. I intreat you, however, by the memory of what you once was, to excite, revive, and renew in your mind, an ardent and unceasing purpose and endeavour, during the short period of your remaining life, to subdue that callous insensibility of heart, of which, in an ill-fated hour, you once boasted, and to regain that salutary and more softened frame and disposition of the heart and affections, which I trust you once had, and which may enable you to work out that salvation, which, from the infinite mercy of God, may even yet be attainable by effectual penitence and prevailing prayers.

As to you, John Wood, Thomas Broughton, John Francis, Thomas Newman, Daniel Tyndall, James Sedgwick Wratten, William Lander, Arthur Graham, and John Macnamara, the sad victims of his seduction and example, or of your own wicked, discontented, and disloyal purposes, you afford a melancholy, but I hope an instructive example, to all persons in the same class and condition with yourselves — an example to deter them, by the calamitous consequences which presently await your crimes, from engaging in the same mischievous and destruc-

tive councils and designs which have brought you to this ignominious and untimely end.

May they learn properly to value the humble, but secure blessings of an industrious and quiet life, and of an honest and loyal course of conduct, all which blessings you have, in an evil hour, wilfully cast from you; and may they by so doing, and thus profiting by your example, increase at the same time the stock of public happiness and security, in the best and most effectual manner, as well as their own.

The same recommendation which I have already offered to the Leader in your crimes, and the companion of your present sufferings, as to the employment of the short remainder of your present existence, I again repeat, and earnestly recommend to every one of you; and may your ardent and effectual penitence obtain for you all, hereafter, that mercy which a due and necessary regard to the interest and security of your fellow-creatures will not allow of your receiving here.

It only remains for me to pronounce the sad and painful sentence of the law upon the crime of which you are convicted; and that sentence is, and this Court doth adjudge,

That you, the several Prisoners at the bar, be severally taken from hence to the place from whence you came, and from thence be severally drawn on an hurdle to the place of execution, and there be severally hanged by the neck, but not until you are dead, but that you be severally taken down again, and that whilst you are yet alive, your bowels be taken out and burnt before your faces; and that afterwards your heads be severed from your bodies, and your bodies be divided each into four quarters, and your heads and quarters to be at the King's disposal. And may God Almighty have mercy on your souls.

Edward Marcus Despard. I beg your Lordship will allow me to say one or two words. Your Lord-

ship has imputed to me the character of being the seducer of these men; I do not conceive that any thing appeared in the trial or the evidence adduced against me, to prove that I am the seducer of these men.

John Macnamara. I am now under sentence of death. I declare before God this moment, and may God never receive me if I ever spoke a word to Windsor since I was born, till I was brought into the house where the officer was.

On Monday, the 21st of February, *Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, James Sedgwick Wratten, Arthur Graham, and John Macnamara,* were each drawn on an hurdle to a platform erected in the front of the County Gaol at Newington, where they were hanged; after having been suspended for near half an hour, they were cut down, when their heads were severed from their bodies (the King having graciously remitted the execution of the remainder of their sentence) and their bodies were delivered to their respective friends.

TABLE OF CONTENTS.

	Page
SPECIAL Commission opened January 3, at the Session House, at Newington,	3
The Grand Jury,	4
Lord Ellenborough's Charge to the Grand Jury,	ib.
The Grand Jury returned a true Bill against Edward Marcus Despard, John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, for High Treason,	13
The Counsel assigned for Edward Marcus Despard,	14
On the 5th of February the Prisoners were arraigned at the Session House, at Newington,	ib.
The Counsel assigned for the remainder of the Prisoners,	ib.
The Counsel for the Prisoners gave notice that they should separate their challenges,	ib.
The Attorney-General stated that he should proceed first on the trial of Colonel Despard,	15
On Monday, February 7, the trial of Edward Marcus Despard commenced,	ib.
Counsel for the Crown, and for the Prisoner,	ib.
The Pannel of the Petit Jury, with the challenges,	ib.
The Jury sworn,	19
The Indictment,	20
Mr. ATTORNEY-GENERAL'S Speech in opening the Case,	26
John Stafford's Examination,	58
A card containing a treasonable oath,	64
Charles Bacon's Examination,	ib.
John May's Examination,	66
Samuel Taunton's Examination,	67

	Page
Joseph Hannah's Examination,	68
John Rivett's Examination,	ib.
Thomas Windsor's Examination,	69
——— Cross-Examination,	86
——— Re-Examination,	88
William Bownas's Examination,	ib.
William Campbell's Examination,	89
Charles Dean's Examination,	91
Joseph's Walker's Examination,	92
Thomas Blades's Examination,	93
——— Cross-Examination,	101
——— Re-Examination,	103
William Francis's Examination,	ib.
——— Cross-Examination,	108
——— Re-Examination,	110
Patrick Connel's Examination,	111
John Bird's Examination,	112
John Pike's Examination,	115
Robert Tomlinson's Examination,	119
Job Roberts's Examination,	120
Peter Pollard's Examination,	121
John Emblin's Examination,	122
——— Cross-Examination,	135
Mary Plowman's Examination,	136
Sir Richard Ford's Examination,	138
Mr. SERJEANT BEST's Speech,	139
Lord Nelson's Examination,	174
——— Cross-Examination,	ib.
General Sir Alured Clarke's Examination,	175
——— Cross-Examination,	ib.
Sir Evan Nepean's Examination,	176
——— Cross-Examination,	ib.
Mr. GURNEY's Speech,	177
Mr. SOLICITOR GENERAL's Reply,	188
LORD ELLENBOROUGH's summing up,	210
The Verdict,	263
LORD ELLENBOROUGH's Speech on passing sentence,	264
An account of the execution,	269

The Trial of John Wood, Thomas Broughton, John Francis, Thomas Phillips, Thomas Newman, Daniel Tyndall, John Doyle, James Sedgwick Wratten, William Lander, Arthur Graham, Samuel Smith, and John Macnamara, is in the Press, and will soon be published.

THE TRIAL AT LARGE OF WILLIAM CODLING, JOHN READ, GEORGE EASTERBY, AND WILLIAM MACFARLANE, at the last Admiralty Session, at the Old Bailey, for sinking and destroying the Brig Adventure, off Brighton, is printed, and will be published immediately after the next Admiralty Session, when the opinion of the twelve Judges will be delivered upon the point of Law reserved for their consideration, respecting the case of George Easterby, and William Macfarlane.

JOSEPH AND W. B. GURNEY'S OFFICE is removed to No. 17, Bartlett's Buildings, Holborn.

The following TRIALS *are published from Mr.* GURNEY'S *Short-Hand Notes.*

1. THE Trial of Elizabeth, Ducheſs Dowager of Kingſton, for Bigamy. Before the Right Honourable the Houſe of PEERS, in Weſtminſter-Hall, in full Parliament aſſembled, on the 15th, 16th, 17th, 20th, and 22d Days of April, 1776. Printed under an Order of the Houſe of Lords. 10s.

2. The Trial of James Hill, alias John the Painter, for wilfully ſetting Fire to the King's Rope-Houſe, at Portſmouth. Before Mr. Baron Hotham, at the Aſſize at Wincheſter, March 6, 1777. 2s.

3. The Trial of John Horne, Eſq. upon an Information, filed *ex officio*, by his Majeſty's Attorney-General, for a Libel. Before the Earl of Mansfield, at Guildhall, July 7, 1777. 3s. A Supplement to the Trial, containing the ſubſequent Proceedings in the Court of King's-Bench. 1s.

4. The Trial of Lord George Gordon, for High-Treaſon, at the Bar of the Court of King's-Bench, February 5, 1781. 3s. 6d.

5. The Trial of John Donellan, Eſq. for the Murder of Sir Theodoſius Boughton, Bart. Before Mr. Juſtice Buller, at the Aſſize at Warwick, March 30, 1781. 2s. 6d.

6. The Trial of David Tyrie, for High-Treaſon, at the Aſſize at Wincheſter. Before Mr. Juſtice Heath, Auguſt 10, 1782. 1s.

7. The Trial of the Indictment againſt the Rev. William Davies Shipley, Dean of St. Aſaph, for a Libel. Before Mr. Juſtice Buller, at the Aſſize at Shrewſbury, Auguſt 6, 1784. 2s. 6d.

The previous Arguments in this Cauſe at the Great Seſſion at Wrexham, September 1, 1783. 1s. 6d.

8. The Trial of John Motherhill, for committing a Rape on Miſs Catharine Wade, at Brighthelmſton. Before Mr. Juſtice Aſhhurſt, at the Aſſize at Eaſt-Grinſtead, March, 1786. Price 2s.

9. The

9. The Trials on the Informations which, by Order of the Houſe of Commons, were filed by His Majeſty's Attorney-General againſt Richard Smith, Eſq. and Thomas Brand Hollis, Eſq. for Bribing the Voters of the Borough of Hindon. Before Mr. Baron Hotham, at the Aſſize at Saliſbury, 1776. 1s. 6d.

10. The Trials of the Rioters, at St. Margaret's Hill. Before Lord Loughborough, Mr. Juſtice Gould, Mr. Baron Eyre, and Mr. Juſtice Buller, in July, 1780. Printed in eight Parts. Price 6d. each.

11. The Trial of Francis Henry De la Motte, for High-Treaſon; containing all the Arguments of the Counſel, &c. Before Mr. Juſtice Buller, at the Old Bailey, July, 1781. 2s.

12. The Trial of the Rev. Bennet Allen, and Robert Morris, Eſq. for the Murder of Lloyd Dulany, Eſq. in a Duel in Hyde Park; containing all the Arguments of the Counſel, &c. Before Mr. Juſtice Buller, at the Old Bailey, June, 1782.

13. The Trial of the Honourable Lieutenant-General James Murray, late Governor of Minorca. At a Court-Martial, held at the Horſe Guards. 3s. 6d.

14. The Trial of the Honourable Major Henry Fitzroy Stanhope, for his Conduct at Tobago. At a Court-Martial, held at the Horſe Guards, in June 1783. 3s. 6d.

15. The Proceedings in the Court of King's Bench againſt Lieutenant Bourne, on the Proſecution of Sir James Wallace, for a Libel, and for an Aſſault; containing all the Evidence, together with the Arguments of Mr. Bearcroft, Mr. Sylveſter, Mr. Law, and Mr. Adam, for the Proſecution; and of Mr. Lee, the Honourable Thomas Erſkine, and Mr. Macnally, for the Defendant; and the Speech of Mr. Juſtice Willes at pronouncing Judgment on Mr. Bourne. Price 3s.

16. The Caſe of the Eaſt-India Company, as ſtated and proved at the Bar of the Houſe of Lords, on the 15th and 16th Days of December, 1783, upon the hearing of two Petitions againſt a Bill, intituled, "An Act for eſtabliſhing certain Regulations for the better Management of the Territories, Revenues, and Commerce of this Kingdom, in the Eaſt-Indies;" containing the Arguments of Mr. Rous and Mr. Dallas, for the Company; Mr. Hardinge and Mr. Plumer, for the Directors. Price 2s. 6d.

17. The

List of Trials *published from Mr.* Gurney's *Short-Hand Notes.*

17. The whole Proceedings on the Trials of two Informations, exhibited, *ex officio*, by the King's Attorney-General, againſt Lord George Gordon; one for a Libel on the Queen of France and the French Ambaſſador; the other for a Libel on the Judges and Adminiſtration of the Laws in England. Tried in the Court of King's Bench, London, June 6, 1787, before the Honourable Mr. Juſtice Buller. Price 2s.

18. The Proceedings on the *Quo Warranto* againſt an Alderman and a Common Councilman of Cheſter; containing the two Trials at Shrewſbury, and the Arguments and Judgments in the Court of King's Bench, and in the Houſe of Lords. Two Volumes, large Octavo. Price 1l. 1s.

19. The whole Proceedings on the Trial of an Information, exhibited, *ex officio*, by the King's Attorney-General, againſt Thomas Paine, for a Libel, entitled the The Rights of Man. Tried before Lord Kenyon, in the Court of King's Bench, Guildhall, December 22d, 1792. Price 3s. 6d.

20. The Trial of THOMAS HARDY, for High Treaſon, at the Seſſion Houſe in the Old Bailey; containing the parol Evidence, authentic Copies of all the Letters, and Arguments verbatim. In Four Volumes, Octavo. Price 1l. 8s. in Boards.

21. The Trial of JOHN HORNE TOOKE, for High Treaſon, at the Seſſion Houſe in the Old Bailey; containing the parol Evidence, authentic Copies of all the Letters, and the Arguments verbatim. In Two Volumes, Octavo. Price 14s. in Boards.

22. The TRIAL of WILLIAM STONE, for HIGH TREASON, at the Bar of the Court of King's Bench. Price 7s.

23. The TRIAL of ROBERT THOMAS CROSSFIELD, for HIGH TREASON, at the Seſſion Houſe in the Old Bailey. 7s.

24. The TRIAL of JAMES O'COIGLEY, alias JAMES QUIGLEY, alias JAMES JOHN FIVEY, ARTHUR O'CONNOR, Eſq. JOHN BINNS, JOHN ALLEN, and JEREMIAH LEARY, for HIGH TREASON. Price 9s.

[*Theſe Trials are uniformly printed on the ſame Size as the Trial of Colonel Deſpard.*]

Such of the above-mentioned Trials as are not out of print, may be had of Martha Gurney, *Bookſeller, Holborn Hill.*

This Day is published,

DEDICATED, WITH PERMISSION,
TO THE KING,

Price HALF-A-GUINEA,

THE TWELFTH EDITION, OF

BRACHYGRAPHY,

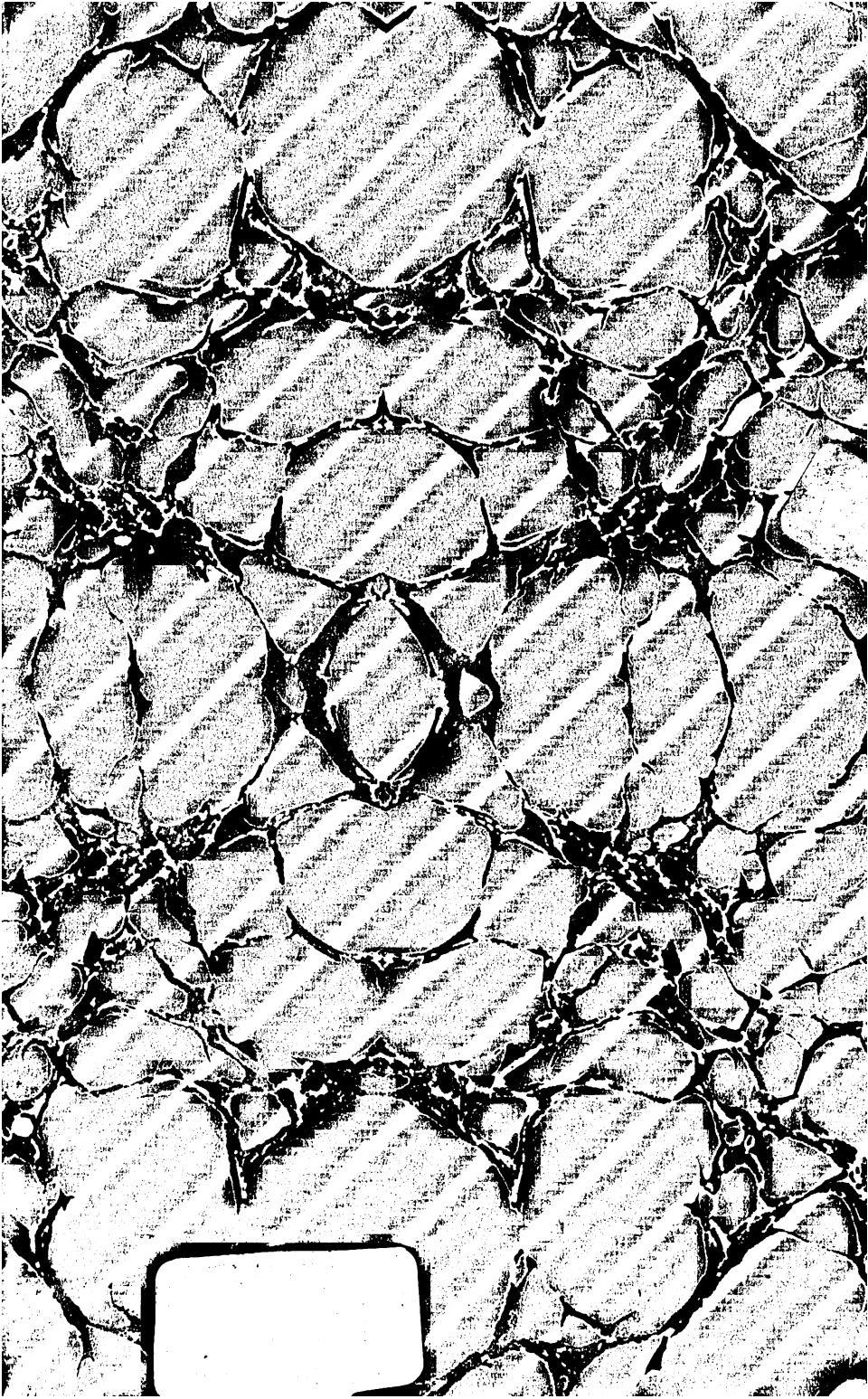
OR AN

EASY AND COMPENDIOUS SYSTEM OF SHORT-HAND.

Adapted to the various Arts, Sciences, and Profeſſions.

BY JOSEPH GURNEY.

Note. The Book is a ſufficient Inſtruction of itſelf; but if any difficulties occur, they ſhall be removed upon application to the Author, either perſonally or by letter, without any additional expence.

G. Woodfall, Printer, Paternoſter-row, London.

AP ADL ALt
The trial of Edward Marcus Dea
Stanford Law Library
3 6105 044 063 571